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National Energy Board



Office national de l'énergie

File No. 3040-F061

17 February 1994

To: Interested Parties

Subject: **Amendments to the National Energy Board List of Automatic Exclusions Pursuant to the Environmental Assessment and Review Process Guidelines Order**

As a result of the Federal Court decision in the case of *Attorney General of Québec v. National Energy Board* [1991] 3 F.C. 443, the National Energy Board ("the Board") has conducted, in consultation with the Federal Environmental Assessment Review Office, a review of its 30 April 1991 List of Automatic Exclusions pursuant to the *Environmental Assessment and Review Process Guidelines Order* ("EARP Guidelines Order").

The Board has modified its List of Automatic Exclusions; specifically, section 21, section 117, section 118, section 119.03, section 119.08 and Part VII - Interprovincial Oil and Gas Trade. The amendments to the 30 April 1991 Exclusion List are as follows:

#### Section 21

Applications under section 21 require a screening only when the original section under which the application was brought before the Board had required a screening;

#### Sections 117 - 118

Automatic exclusion of all applications for oil exports except those exports by marine vessel from the West Coast of Canada of oil other than oil products and oil recovered by the processing of oil sands that have sulphur content of greater than 0.9 per cent by weight with the exception of Peace River Blend and Cold Lake Blend heavy crude oils. The remaining oils, with a sulphur content of greater than 0.9 per cent, have the potential to produce nuisance odour emissions which could result in public concerns/complaints;





Section 119.03

Automatic exclusion of all applications for permits to export electricity;

Section 119.08

Automatic exclusion of all applications for licences to export electricity; and

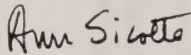
Part VII - Interprovincial Oil and Gas Trade

Automatic exclusion of all licences, criteria and regulations for the movement of designated oil and gas out of the designated province or area.

Where there is the necessity to construct new facilities to implement the export of the applied-for oil, gas or electricity and those facilities are under the Board's jurisdiction, the Board would subject an application for the construction and operation of those facilities to the environmental screening process pursuant to the EARP Guidelines Order.

Please replace any previous Exclusion List with this most recent version.

Yours truly,

  
for J.S. Richardson  
Secretary

Attachment





**NATIONAL ENERGY BOARD**  
**LIST OF AUTOMATIC EXCLUSIONS**  
**PURSUANT TO EARP GUIDELINES ORDER**

**General Principles**

1. Issues related to the technical aspects of, and need for, a project are assessed by the Board independently of its environmental review. Those issues thus would not normally be considered as part of the Board's environmental assessment.
2. Despite a project's designation of automatic exclusion, the Board may, as a result of potentially significant environmental or public concern, determine that screening of a particular project would be necessary.

REFERENCE	TITLE	DESCRIPTION	COMMENTS
Part I	National Energy Board	Establishes the Board and describes its powers.	Automatic Exclusion (Except Section 21 which requires screening when the original section under which the application was brought requires a screening)
Part II	Advisory Functions	Responsibility of the Board to advise the Minister of energy issues.	Automatic Exclusion
Part III	Certificates of Public Convenience and Necessity	Procedures for the authorization of pipeline and power line construction.	
Section 47	Leave to Open Pipelines	Requirement for Board approval to begin operating a pipeline.	Automatic Exclusion
Section 56	Revocation and Suspension	Authority to revoke certificates in cases of non-compliance.	Automatic Exclusion





**Page 2**  
**February 1994**

**List of Automatic Exclusions**  
**Pursuant to EARP Guidelines Order**

REFERENCE	TITLE	DESCRIPTION	COMMENTS
Section 58	Exemptions	Authority for the Board to exempt certain pipelines or associated facilities from certain provisions of the NEB Act.	See Note 1
<b>Part III.1</b>	<b>Construction and Operation of Power Lines</b>	Procedures for regulating the construction and operation of interprovincial and international power lines.	
Section 58.11	Permits	Permitting construction and operation of international power lines.	See Note 2
Section 58.15 Section 58.16	Certificates	Certifying construction and operation of international power lines and designated interprovincial power lines.	See Note 2
Section 58.29	Crossing Other Facilities	Leave of appropriate authority needed to cross navigable waters or other facilities.	Automatic Exclusion
Section 58.31	Other Facilities Crossing Power Lines	Leave of Board required to cross international or designated interprovincial power lines.	Automatic Exclusion
Section 58.37	Revocation and Suspension	Authority to revoke permits or certificates.	Automatic Exclusion
<b>Part IV</b>	<b>Traffic, Tolls and Tariffs</b>	Procedures for the regulation of traffic, tolls and tariffs.	Automatic Exclusion
<b>Part V</b>	<b>Powers of Pipeline Companies</b>	Rights and responsibilities of the pipeline companies concerning the construction of facilities, land acquisition, compensation, mineral resources, etc.	Automatic Exclusion [Except Section 74(1)(d)]
<b>Part VI</b>	<b>Exports and Imports</b>	Procedures for the export and import of oil, gas and electricity.	
Section 117-118	Issuance of Licences	Procedure for the issuance of licences and orders for the import and export of oil and gas.	See Note 3
Section 119	Revocation and Suspension	Authority to revoke licences in cases of non-compliance.	Automatic Exclusion
Section 119.03	Issuance of Permits	Authority to issue permits to export electricity.	Automatic Exclusion





**Page 3**  
**February 1994**  
**List of Automatic Exclusions**  
**Pursuant to EARP Guidelines Order**

REFERENCE	TITLE	DESCRIPTION	COMMENTS
Section 119.08	Issuance of Licences	Authority to issue licences to export electricity.	Automatic Exclusion
Section 119.093	Revocation and Suspension	Authority of the Board to revoke or suspend licence or permit.	Automatic Exclusion
<b>Part VII</b>	<b>Interprovincial Oil and Gas Trade</b>	Authority of the Board to assume the supervision and control of the movement of designated oil or gas out of a designated province or area.	Automatic Exclusion
<b>Part VIII</b>	<b>General</b>	Other general matters.	
Section 129	Regulations	Authority to make regulations concerning accounting procedures.	Automatic Exclusion





**Note 1**

(A) Automatic exclusion for:

- (i) applications for work contained within the confines of station property, or other property either owned or leased by the applicant, other than work
  - (a) related to the storage or disposal of toxic substances;
  - (b) that will result in increased noise emissions; or
  - (c) that will result in increased emissions of air contaminants;
- (ii) applications for additional acquisitions required to support the day-to-day operations of a company (e.g. office supplies and furniture, vehicles, aircraft repair, standby plant and materials and supplies); and
- (iii) applications for routine maintenance, emergency repairs and installations, contingency projects and work.

**Note 2**

Automatic exclusion for applications for international or designated interprovincial power lines not exceeding an operating voltage of 50 kilovolts.

**Note 3**

(A) Automatic exclusion for all applications for oil exports, except for exports by marine vessel from the West Coast of Canada of:

- (i) oil, other than oil products, that has a sulphur content greater than 0.9 percent by weight, with the exception of Peace River Blend, heavy crude and Cold Lake Blend heavy crude oils; and
- (ii) oil recovered by the processing of oil sands that has a sulphur content greater than 0.9 percent by weight.





(B) Automatic exclusion for applications for natural gas exports, imports, exports for subsequent import and imports for subsequent export authorized:

- (i) by order<sup>1</sup>;
- (ii) by licence<sup>2</sup>

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<sup>1</sup>Orders apply to:

- (a) exports or imports of gas for a period not exceeding 2 years;
- (b) exports or imports of not more than 30 thousand cubic metres of gas per day, for a period exceeding 2 years but not exceeding 20 years;  
and
- (c) exports of gas for subsequent import or imports of gas for subsequent export, for a period not exceeding 25 years.

<sup>2</sup>Licences apply to all exports and imports of gas not authorized by order.





National Energy Board



Office national de l'énergie

File No. 7205-M093-15

15 March 1994

TO: Brooklyn Navy Yard Cogeneration Partners, L.P.  
Husky Oil Operations Ltd.  
ProGas Limited  
Shell Canada Limited  
Western Gas Marketing Limited  
All Intervenors in GH-5-93



**Re: Review of National Energy Board Reasons for Decision in GH-5-93**

The Board received the attached application (Appendix "A") dated 7 March 1994 from the Rocky Mountain Ecosystem Coalition ("RMEC"), an intervenor in the GH-5-93 proceeding, requesting that the Board review its decisions taken in the GH-5-93 proceeding. RMEC submits that the Supreme Court of Canada decision, dated 24 February 1994, in *The Grand Council of the Crees (of Quebec) et al v. Attorney General of Canada et al*, unreported, constitutes a change in circumstance which warrants a review of the Board's decisions on the gas export licence applications before it in GH-5-93. Specifically, RMEC argues that the Board should "hear submissions with regard to the upstream environmental effects associated with the applied-for natural gas export applications".

On 31 January 1994, the Board made its findings as required under the Environmental Assessment Review Process Guidelines Order (the "EARP Guidelines Order"). On 31 January 1994, the Board delivered decisions from the Bench approving, with reasons to follow, the applications of Brooklyn Navy Yard Cogeneration Partners, L.P., ProGas Limited and Western Gas Marketing Limited. Decisions for Husky Oil Operations Ltd. and Shell Canada Limited were deferred. The Board subsequently made the decisions approving the deferred applications. The Reasons for Decision were signed on 16 February 1994. A copy of the Reasons for Decision, which contains the Board's findings with respect to the EARP Guidelines Order, and a copy of the Board's Resource Category Checklists, upon which its findings were based, are enclosed.

The Board is of the view that the RMEC application raises a question as to the correctness of the Board's decisions. Accordingly, the Board has decided to conduct a review, pursuant to Section 21 of the *National Energy Board Act* (the "Act"), of its decisions, insofar as they relate to the scope of the

potential environmental effects and directly related social effects of the exports. In conducting this review, the Board requests that parties address the following questions:

1. Are the decisions made by the Board, in respect of the scope of its obligations under the EARP Guidelines Order and the Act to consider the environmental effects and directly related social effects of the proposals, correct?
2. If the decisions are incorrect, would evidence submitted by the Applicants in response to:
  - (a) the questions set out in Appendix "B"; or
  - (b) the matters raised in the letter of RMEC dated 10 January 1994, a copy of which is attached as Appendix "C";be necessary and sufficient to allow the Board to meet its obligations under the EARP Guidelines Order and under the Act to consider the environmental effects and directly related social effects of the proposals?
3. If the decisions are incorrect, is there any evidence, not referred to in question 2 above, that is necessary to allow the Board to meet its obligations?

The procedure to be followed for this review will be as follows:

1. The Applicants and all Intervenors to GH-5-93 may file submissions responding to the questions set out above no later than 15 April 1994.
2. All Parties may file replies in response to the submissions no later than 29 April 1994.

Any person who is not an Intervenor in the GH-5-93 proceeding and who wishes to make submissions in this review may file with the Secretary by 31 March 1994 a request to be included as an Intervenor in the review. Such request should:

- a) set out the name, mailing address, address for personal service, telephone number and/or other telecommunications numbers, if any, of the person or authorized representative of the person;
- b) describe the nature of the person's interest in the review; and
- c) be served on all of the Applicants and Intervenors in the GH-5-93 proceeding.

The Secretary will issue a List of Parties to this review shortly after 31 March 1994.

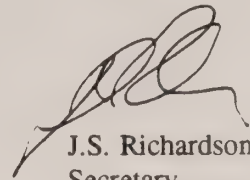


15 March 1994

Page 3

All submissions and replies shall be filed with the Board and served on all parties named in the List of Parties.

Yours truly,

A handwritten signature in black ink, appearing to be 'J.S. Richardson', written in a cursive style.

J.S. Richardson  
Secretary

cc: Attorney-General of Canada

cc: Attorneys-General for the Provinces of Canada



RECEIVED

71 MAR 10 1994

Rocky Mountain Ecosystem Coalition  
Suite 200 110 - 11th Avenue S.W.  
Calgary, Alberta. T2R 0B6

File: 7205-M093-15  
March 7, 1994

11344

VIA FAX

Mr. J.S. Richardson, Secretary  
National Energy Board  
311 - 6th Avenue S.W.  
Calgary, Alberta. T2P 3H2

Dear Mr. Richardson

Re: Hearing Order GH-5-93

As you are aware, the Rocky Mountain Ecosystem Coalition (RMEC) was granted intervenor status in the above referenced proceeding. It was our intent, as is demonstrated in our correspondence to the National Energy Board (the Board), to present evidence regarding the causal relationship between export applications and upstream environmental effects on ecosystem integrity and biodiversity. However, the Board refused to allow this information to be either presented or considered at the hearing. The Board's position in this matter was based on the Quebec Court of Appeal decision (National Energy Board v. Quebec Hydro) where it was ruled that the Board did not have the jurisdiction to consider the upstream environmental effects of producing electricity when considering an export application. The RMEC has long disagreed with this ruling and has maintained that the Board must consider the upstream environmental effects of producing petroleum products when considering natural gas export permits. As of February 24, 1994 the Supreme Court of Canada agrees with us.

With the Supreme Court decision, the premise of the Board's argument is null and void, and therefore not applicable. It now appears conclusively that it is within the Board's jurisdiction to consider the upstream effects associated with an application to export natural gas.

In light of the change in circumstance, the RMEC formally requests that the National Energy Board, as per the provisions of s. 21 of the National Energy Board Act, rescind all licences granted and refrain from granting additional licences arising from the above referenced hearing order. Additionally, the RMEC formally requests that the Board, as per the provisions of s. 24 of the National Energy Board Act, reconvene a public hearing to hear submissions with regard to the upstream environmental effects associated with the applied for natural gas export applications. To not grant our requests would be, in our opinion, a breach of the rule of natural justice and fairness.



2

The Board is referred to our letter to the Board dated 01/10/94 in which the RMEC outlined the material which would be required to adequately address the question of upstream environmental effects. None of the current applications reviewed in GR-5-93 has even superficially addressed these information requirements and are therefore deficient. In order to reconvene a public hearing as requested, the applications must be updated to meet the new requirements. In fairness to the applicants, adequate time must be provided so that they may prepare the necessary information. Subsequently, intervenors must be given adequate time to review the materials submitted by the applicants. A minimum of 30 days is suggested.

We look forward to your timely response.

Yours truly,

ROCKY MOUNTAIN ECOSYSTEM COALITION

Micneal D. Sawyer  
Executive Director

cc. Applicants

## APPENDIX B

### Preamble:

The Board requests information related to the conduct of an environmental assessment of the application to export natural gas from Canada under licence. The Board requests sufficient information to allow it to consider:

- (a) the potential environmental effects of the proposal and the social effects directly related to those environmental effects, including any effects that are external to Canadian territory;

and

- (b) the concerns of the public regarding the proposal and its potential environmental effects.

In its response to the request which follows, the Applicant may refer to existing information; to information previously filed with the Board; or use information submitted to other agencies or governments. The level of detail of the information to be submitted to the Board shall correspond to the nature and magnitude of the potential environmental effects of the proposed project.

In light of the foregoing, the Applicant is directed to provide the following information:

### Request 1:

With respect to the construction and operation of any new or modified facilities in Canada and in the importing country for:

- (i) production;
- (ii) gathering;
- (iii) processing;
- (iv) transmission;
- (v) distribution; or
- (vi) other purposes,

required to give effect to the proposed export transaction, please provide the following information:

- (a) evidence as to the nature and significance of any potential environmental effects;
- (b) evidence as to the nature and significance of any social effects directly related to the environmental effects identified in (a) above;
- (c) evidence as to the extent to which the environmental and social effects identified in (a) and (b) above can be mitigated; and

- (d) evidence that all required governmental environmental authorizations have been or are likely to be obtained.

In providing this information please set out the rationale for any conclusions you have reached.

**Request 2:**

With respect to the end use of the natural gas proposed to be exported, please provide the following information:

- (a) evidence as to the nature and significance of any potential environmental effects;
- (b) evidence as to the nature and significance of any social effects directly related to the environmental effects identified in (a) above;
- (c) evidence as to the extent to which the environmental and social effects identified in (a) and (b) above can be mitigated; and
- (d) evidence that all required governmental environmental authorizations have been or are likely to be obtained.

In providing this information please set out the rationale for any conclusions you have reached.





Rocky  
Mountain  
Ecosystem  
Coalition

REC/ONE

11 JAN 1994

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Suite 206  
110 - 11th Avenue S.W.  
Calgary, Alberta  
T2R 0B8

Telephone (403) 266-2468  
Fax (403) 265-7737

113101

File: 7205-M093-15  
January 10, 1994

VIA FAX

Mr. J.S. Richardson, Secretary  
National Energy Board  
311 - 6th Avenue S.W.  
Calgary, Alberta. T2P 3H2

Dear Mr. Richardson

Re: Hearing Order GH-5-93 Comments for the  
Purpose of the Board's EARP Initial Assessment

Notwithstanding that the Board believes that is beyond its jurisdiction to consider evidence regarding the causal relationship between export applications and upstream environmental effects on ecosystem integrity and biodiversity, the RMEC takes the following positions with regard to the scope of the anticipated EARP Initial Assessment.

1. There are cause and effect relationships between the applications before the Board and upstream environmental effects, and these environmental effects must be fully considered in the Board's Initial Assessment.
2. In considering the upstream environmental effects causally related to the Applications, the Board's Initial Assessment should provide sufficient environmental information so that the overall benefit/cost of these Applications can be determined, and should include the following;
  - a) An analysis of upstream operating procedures and their effects on the local, regional and global environment,
  - b) An analysis of the upstream legislative and regulatory environment and the adequacy of these regimes in ensuring environmental sustainability;
  - c) An analysis of baseline environmental conditions in gas supply areas supporting the Applications; and
  - d) A description and analysis of the significance of

environmental, economic, and cultural effects including regional, temporal and cumulative effects associated with the Applications; and

- e) An analysis of the environmental effects of upstream green house gas emissions and how these emissions will impact on Canada's international commitments with regard to global warming.

Any Initial Assessment which does not address the above questions would, in our opinion, be inadequate and would not reflect the spirit of the EARP Guideline Order. In the absence of information about upstream environmental effects the Board cannot truly determine if the Applications are in the public interest.

The RMEC hereby puts the Board on notice that it will put forward arguments based on questions of law and jurisdiction in support of its position that the Board must have regard for upstream environmental effects in determining whether the Applications are in the public interest. Additionally, RMEC will make representations with regard to upstream environmental effects and identify deficiencies within the Applications having regard for the upstream environmental effects.

Yours truly,

ROCKY MOUNTAIN ECOSYSTEM COALITION



Micheal D. Sawyer  
Executive Director

cc. Applicants

Date: 28 January 1994

Working File

## RESOURCE CATEGORY CHECKLIST

### Applicants

### Application Date

Brooklyn Navy Yard Cogeneration Partners, L.P. ("Brooklyn Navy Yard")  
Husky Oil Operations Ltd. ("Husky")

21 October 1993  
24 November 1993

File No: 7205-M093G-745  
Document: a:\gh593.mem

### Description:

During the GH-5-93 proceeding, the National Energy Board ("the Board") examined the subject gas export licence applications.

### Anticipated Effects Levels:

The Brooklyn Navy Yard and Husky gas exports will require the construction of additional facilities by TransCanada and Westcoast respectively and are therefore, not subject to the Exclusion List. The new facilities will be subject to environmental assessment by the Board's staff in the course of the Board's Part III facilities review. The Directorate has determined, pursuant to section 12 of the *Environmental Assessment and Review Process Guidelines Order*, that none of the subsections (a) to (f) set out therein are applicable as the proposed Brooklyn Navy Yard and Husky exports have no potentially adverse environmental effects *per se* and may proceed without further environmental assessment.

### Public Concern:

By letter dated 22 December 1993, the Rocky Mountain Ecosystem Coalition ("RMEC") applied for intervenor status in GH-5-93. That letter indicated that the RMEC was interested in examining three aspects related to the export applications: (1) the causal relationship between export applications and upstream environmental effects which impair ecosystem integrity and biodiversity; (2) any uncertainty and risk to Canadian gas consumers having regard for energy security, sovereignty, social, health and economic implications of the applications, and; (3) the public interest. By letter dated 5 January 1994, RMEC was granted late intervenor status in GH-5-93. RMEC was advised that aspect (1) did not fall within the bounds of the Board's jurisdiction and therefore, the Board was not prepared to hear evidence on this aspect. RMEC replied by letter dated 10 January that the above listed aspects needed to be examined in this context to reflect the spirit of the EARP Guidelines Order and would be presenting arguments based on questions of law and jurisdiction in support of its position. By letter dated 19 January 1994, the Board reiterated its position and its refusal to consider evidence which related to the causal relationship between export applications and upstream environmental effects.



**The Anticipated Effects Were Rated As:**

N = None

I = Insignificant

M = Mitigable with known technology

UK = Unknown

S = Significant

UA = Unacceptable

Resource Category	Potential Effect	Resource Category	Potential Effect
Ground Water	_____ N	Archaeolo./Heritage	_____ N
Surface Water	_____ N	Recreation	_____ N
Marine Environment	_____ N	Public Concern	_____ Y
Wetlands	_____ N	Land Use	_____ N
Soils	_____ N	Community/Social Serv.	_____ N
Permafrost	_____ N	Health & Safety	_____ N
Geolog./Geophys.	_____ N	Municipal Services	_____ N
Air Quality	_____ N	Native Lands	_____ N
Weather/Climate	_____ N	Navigation	_____ N
Vegetation	_____ N	Economics	_____ N
Wildlife/Wildlife Habitat	_____ N	Local/Region. Planning	_____ N
Aquatic resources/Habitat	_____ N	Others	_____ N
Noise	_____ N		

**Automatic Exclusion:**

Yes ( )

No ( X ) 2

**Decision:**

The Resource Category Checklist was reviewed and approved by the Panel on 31 January 1994.

Date: 28 January 1994

Working File

## RESOURCE CATEGORY CHECKLIST

### Applicants

### Application Date

ProGas Limited ("ProGas")	16 September 1993
ProGas Limited ("ProGas") (X6)	16 September 1993
ProGas Limited ("ProGas") (X2)	20 October 1993
Shell Canada Limited ("Shell")	22 October 1993
Western Gas Marketing Limited ("WGML") (X5)	22 October 1993

File No: 7205-M093G-745

Document: a:\gh593.mem

### Description:

During the GH-5-93 proceeding, the National Energy Board ("the Board") examined the subject gas export licence applications.

### Anticipated Effects Levels:

The proposed Progas, Shell and WGML gas exports are of types identified by the Board's Environmental Assessment and Review Process Guidelines Order Exclusion List ("Exclusion List") and may be automatically excluded from further environmental assessment<sup>1</sup>.

### Public Concern:

By letter dated 22 December 1993, the Rocky Mountain Ecosystem Coalition ("RMEC") applied for intervenor status in GH-5-93. That letter indicated that the RMEC was interested in examining three aspects related to the export applications: (1) the causal relationship between export applications and upstream environmental effects which impair ecosystem integrity and biodiversity; (2) any uncertainty and risk to Canadian gas consumers having regard for energy security, sovereignty, social, health and economic implications of the applications, and; (3) the public interest. By letter dated 5 January 1994, RMEC was granted late intervenor status in GH-5-93. RMEC was advised that aspect (1) did not fall within the bounds of the Board's jurisdiction and therefore, the Board was not prepared to hear evidence on this aspect. RMEC replied by letter dated 10 January that the above listed aspects needed to be examined in this context to reflect the spirit of the EARP Guidelines Order and would be presenting arguments based on questions of law and jurisdiction in support of its position. By letter dated 19 January 1994, the Board reiterated its position and its refusal to consider evidence which related to the causal relationship between export applications and upstream environmental effects.

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<sup>1</sup> Note 3 provides for the automatic exclusion of "... applications for natural gas exports, imports, exports for subsequent import and imports for subsequent export authorized:

(ii) by licence where development of new facilities for production, processing, storage or transmission would not be required".

**The Anticipated Effects Were Rated As:**

N = None

I = Insignificant

M = Mitigable with known technology

UK = Unknown

S = Significant

UA = Unacceptable

Resource Category	Potential Effect	Resource Category	Potential Effect
Ground Water	_____ N	Archaeolo./Heritage	_____ N
Surface Water	_____ N	Recreation	_____ N
Marine Environment	_____ N	Public Concern	_____ Y
Wetlands	_____ N	Land Use	_____ N
Soils	_____ N	Community/Social Serv.	_____ N
Permafrost	_____ N	Health & Safety	_____ N
Geolog./Geophys.	_____ N	Municipal Services	_____ N
Air Quality	_____ N	Native Lands	_____ N
Weather/Climate	_____ N	Navigation	_____ N
Vegetation	_____ N	Economics	_____ N
Wildlife/Wildlife Habitat	_____ N	Local/Region. Planning	_____ N
Aquatic resources/Habitat	_____ N	Others	_____ N
Noise	_____ N		
Automatic Exclusion:		Yes ( X ) 15	No ( )

**Decision:**

The Resource Category Checklist was reviewed and approved by the Panel on 31 January 1994.



National Energy Board



Office national de l'énergie

File No. 3400-W57-1

3 May 1994

To: All Interested Parties to GH-R-1-93

Re: **TransGas Limited**  
**Application for Review of Decision re: WBI Canadian Pipeline, Ltd.**  
**GH-R-1-93 Reasons for Decision: Chapter 6 - Dissent**

In relation to the above-captioned matter, attached please find the dissenting opinions of J.-G. Fredette and C. Bélanger on the Board's jurisdiction over the Steelman/North Portal Extension referred to in Chapter 6 of the Reasons for Decision of the majority dated October 1993. The attached forms part of the aforementioned Reasons for Decision.

Yours truly,

J.S. Richardson  
Secretary





## Chapter 6

# Dissent

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### 6.1 Dissenting Opinions of J.-G. Fredette and C. Bélanger on the Board's Jurisdiction over the Steelman/North Portal Extension

#### 6.1.1 Dissenting Opinion of J.-G. Fredette

I have read my colleagues' Reasons for Decision in this matter.<sup>7</sup> I agree with the majority's decision to vary the National Energy Board's ("the Board") decision of 25 February 1993 and issue an order allowing WBI Canadian Pipeline, Ltd. ("WBI Canadian") to proceed with its pipeline project from North Portal, Saskatchewan to the international border. However, I disagree with the majority's reaffirmation of the Board's previous decision that the Steelman/North Portal Extension built by TransGas Limited ("TransGas") would be subject to federal jurisdiction in the event it is connected to the WBI Canadian pipeline.

With respect to this review proceeding, I have no reason to doubt the jurisdictional facts as presented by TransGas and I agree with the manner in which TransGas, in its submissions on the proper constitutional classification of the Steelman/North Portal Extension, interprets and applies the relevant case law to these facts. In particular, contrary to the views of the majority, the jurisdictional tests enunciated and applied in *United Transportation Union et al v. Central Western Railway*<sup>8</sup> ("*Central Western*") clearly suggest to me that the Steelman/North Portal Extension should remain under provincial jurisdiction if connected to the WBI Canadian pipeline. I will limit my considerations to three subjects.

##### 6.1.1.1 Purpose of the Steelman/North Portal Extension

As I understand the facts in this case, the construction of the Steelman/North Portal Extension was triggered by a request to transport natural gas via the TransGas system to a point of interconnection with the proposed WBI Canadian pipeline. TransGas is an integrated natural gas gathering and transmission system operating wholly within the province of Saskatchewan. To accommodate this request for service, TransGas chose to build the Steelman/North Portal Extension rather than undertake some other modifications to its system because this particular design best served its overall system requirements. This is apparent from an examination of the TransGas system grid.<sup>9</sup> The need for the Steelman/North Portal Extension to satisfy a number of local requirements had previously been

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<sup>7</sup>National Energy Board, *Reasons for Decision in the matter of an Application by TransGas Limited dated 23 April 1993 for a review and variance of a decision of the Board dated 25 February 1993 dismissing an Application by WBI Canadian Pipeline, Ltd.*, GH-R-1-93, October 1993. ("NEB, *Reasons for Decision GH-R-1-93*").

<sup>8</sup>[1990] 3 S.C.R. 1112.

<sup>9</sup>See the map of the TransGas grid in the vicinity of the Steelman/North Portal Extension provided in NEB, *Reasons for Decision GH-R-1-93* at page 3.

identified by TransGas and its construction had been included in plans for system expansion prior to WBI Canadian's inception.

The current and planned uses of the Steelman/North Portal Extension, based on the submissions of TransGas, are listed in the majority's Reasons for Decision.<sup>10</sup> I will not, therefore, repeat them here. I am persuaded by the TransGas evidence that the Steelman/North Portal Extension was designed and built with the listed uses in mind, all of which I consider legitimate and I readily classify it as intraprovincial in purpose, including the transportation, as an integrated service, of natural gas received by TransGas at various points within Saskatchewan for delivery to the proposed point of interconnection with the WBI Canadian pipeline, also within Saskatchewan. In so classifying the purpose of the Steelman/North Portal Extension, I differ from the majority in two respects.

First, notwithstanding its considerable efforts at discounting the current and planned uses of the Steelman/North Portal Extension other than the delivery of natural gas to the WBI Canadian pipeline for subsequent export, I believe the majority establishes a much higher hurdle than did the Supreme Court for the Central Western Railway in determining the characteristics sufficient to classify the Steelman/North Portal Extension as intraprovincial in purpose. In *Central Western*, Dickson, C.J. favourably compared the intraprovincial result he advocated with the decision of the Federal Court of Appeal in respect of a single purpose, bypass pipeline proposed by Cyanamid Canada Pipeline Inc. to link an industrial plant with an interprovincial pipeline.<sup>11</sup> Like the Cyanamid pipeline, the Central Western Railway is physically contained within one province and its range of business is limited by spatial boundaries. In comparing the two cases, Dickson, C.J. found the case for provincial control over the Central Western Railway even stronger than is evident in respect of the Cyanamid pipeline, "it being entirely possible for the appellant to conduct other business along its railway".<sup>12</sup>

I note that the Steelman/North Portal Extension built by TransGas is also physically contained within one province, Saskatchewan, and its business operations are confined to transporting natural gas within that province. If the mere possibility of conducting business along its line other than providing a transportation service to a point of interconnection with the Canadian National Railway ("CN"), a federally-regulated enterprise, strengthened the case for provincial control over the Central Western Railway, then the real conduct of other business along the Steelman/North Portal Extension, that is, business other than the delivery of natural gas to the WBI Canadian pipeline, should considerably strengthen the case for provincial control over it.

Second, the majority gives much importance to the ultimate destination of the bulk of the natural gas to be transported over the Steelman/North Portal Extension and portrays the delivery of natural gas to the WBI Canadian pipeline as an "export activity". In so doing, the majority cloaks the Steelman/North Portal Extension with an international purpose justifying its severance from the TransGas system.

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<sup>10</sup>*Ibid.*, section 2.2, "Functions of Extension", at pages 5-9.

<sup>11</sup>The case referred to is *Re National Energy Board*, [1988] 2 F.C. 196.

<sup>12</sup>*Central Western* at p. 1146.



The transportation services offered by TransGas do not extend beyond the borders of the province; they are limited to the delivery of natural gas for consumption within Saskatchewan and to interprovincial pipelines for delivery outside Saskatchewan. Because TransGas operations on the Steelman/North Portal Extension are confined by the province's borders, it cannot be said that it is engaged in an export activity *per se*. Customers on the TransGas system wishing to ship natural gas beyond the province's borders must transact with other pipelines. This distinguishes the Steelman/North Portal Extension from Alberta Government Telephones ("AGT"). Although physically located within one province, AGT was found to be engaged in the provision of telecommunications services to its customers which extended directly beyond the borders of the province by virtue of its activity in transmitting and receiving electronic signals at the border and was, therefore, brought under federal jurisdiction.<sup>13</sup>

In my view, the fact that a significant portion of the natural gas shipped via the Steelman/North Portal Extension is exported outside the province of Saskatchewan should not be on its own determinative of this line's constitutional character nor should it be the cause of functional integration with the WBI Canadian pipeline. In making this assertion, I take note of the absence of this factor from those taken into account by Dickson, C.J. in *Central Western*. The Central Western Railway is used for the transportation of grain and all of its freight is delivered to CN. It would be safe to assume that a significant portion of the grain shipped on the Central Western Railway is ultimately transported outside Alberta and likely exported. If the approach adopted by the majority were to prevail, the division of powers over works and undertakings such as pipelines would be by extension seriously undermined since it would be difficult to imagine pipelines located upstream of federally-regulated pipelines remaining under provincial control given that a significant portion of the natural gas produced in Canada is exported or delivered to markets outside the province in which it was produced.

#### 6.1.1.2 Degree of Functional Integration

A review of recent cases in which the courts have assessed whether practical or functional integration exists between a core federal work and an impugned provincial work to a degree sufficient to bring the provincial work under federal jurisdiction has convinced me that the *Central Western* decision and two key predecessors<sup>14</sup> provide the contemporary rationale for the extension of federal jurisdiction and offer a practical way of resolving the age-old conflict between levels of government stemming from the separation of powers. These three cases deal with the regulation of labour relations and may not, therefore, perfectly parallel the regulation of pipelines. Nevertheless, as I indicated previously in another dissenting opinion,<sup>15</sup> I believe that what emerges from these decisions is the gravitation of the courts' fundamental concern to the protection of the integrity of federal competence and regulatory

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<sup>13</sup>*Alberta Government Telephones v. Canadian Radio-Television and Telecommunications Commission et al*, [1989] 2 S.C.R. 225.

<sup>14</sup>*Northern Telecom Ltd. v. Communications Workers of Canada et al*, [1980] 1 S.C.R. 115 ("*Northern Telecom No. 1*") and *Construction Montcalm v. La Commission du salaire minimum*, [1979] 1 S.C.R. 754 ("*Construction Montcalm*").

<sup>15</sup>See National Energy Board, *Reasons for Decision in the matter of a preliminary question of jurisdiction raised in connection with an Application by Altamont Gas Transmission Canada Limited*, GHW-1-92, February 1993, chapter 6, "Dissent", at pages 26-46.

authority over core federal works or undertakings when these interact with works or undertakings not under federal jurisdiction.

In its submission, TransGas made the point that federal jurisdiction over the Steelman/North Portal Extension should "depend upon a finding that the *regulation of* the subject matter in question is integral to a core federal work or undertaking, not that the putative provincial work or undertaking *itself* is integral to the core federal work or undertaking"<sup>16</sup> based upon the distinctions drawn by Dickson, C.J. in *Central Western*. The majority dismisses this point by noting that "such an emphasis was not developed in that decision nor has this interpretation been advanced in subsequent jurisprudence".<sup>17</sup>

I point out that the *Central Western* decision was rendered in 1990, just over three years ago. One could not reasonably expect this interpretation to have been advanced in subsequent jurisprudence given that jurisdictional cases centred on the question of functional integration are not necessarily frequent occurrences.

More importantly, I believe the emphasis suggested by TransGas is already sufficiently developed in *Central Western* and, indeed, clear enough on its own for my purposes, particularly when *Central Western* is read in conjunction with *Northern Telecom No. 1* and *Construction Montcalm*, the two earlier cases upon which it is founded. In *Central Western*, when describing the principles guiding the application of the practical or functional integration test, Dickson, C.J. quoted directly from the list he developed in *Northern Telecom No. 1* which, in turn, was based on his summary of the decision of Beetz, J. in *Construction Montcalm*.<sup>18</sup> I note that Dickson, C.J. also participated in the *Construction Montcalm* decision. In my view, the words chosen by Dickson, C.J. in *Central Western* to the effect that "jurisdiction is dependent upon a finding that regulation of the subject matter in question is integral to a core federal work or undertaking"<sup>19</sup> have an intrinsic meaning and mark an evolution in the Supreme Court's thinking about this test. By logical inference, these words clarify and narrow the instances where a degree of functional integration may cause, by way of exception, the assertion of federal jurisdiction over works or undertakings previously under exclusive provincial jurisdiction to those involving the integrity of federal jurisdiction.

I agree with the majority's view that the proposition that adequate regulation of the Steelman/North Portal Extension by provincial authorities should preclude the assertion of federal jurisdiction is untenable.<sup>20</sup> This proposition was not advanced by TransGas, not established in *Central Western*, and not one I would promote. However, unlike the majority, I fail to see this proposition as a logical extension of the distinction TransGas drew between a finding that the regulation of a subject matter is integral to a core federal work or undertaking, and a finding that it is the work or undertaking itself which is integral. Rather, TransGas advanced the view that "[t]he distinction between the concepts...

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<sup>16</sup>Submission of TransGas Limited, 9 July 1993 at page 19.

<sup>17</sup>NEB, *Reasons for Decision GH-R-1-93* at page 15.

<sup>18</sup>These guiding principles are listed in *Central Western* at pages 1138-9.

<sup>19</sup>[1990] 3 S.C.R. 1112 at page 1125 (emphasis added).

<sup>20</sup>NEB, *Reasons for Decision GH-R-1-93* at page 15.



is significant since it provides a rational basis for reconciling the many diverse decisions from the courts respecting constitutional division of powers".<sup>21</sup>

In my view, this distinction also serves to distil the practical or functional integration test to its essence which, in the context of this case, can be simply stated in this way: does the Board need to regulate the Steelman/North Portal Extension, or any other portion of the TransGas system, in order to ensure the integrity of the regulatory scheme it exercises over the WBI Canadian pipeline?

#### **6.1.1.3 Physical Dependence as an Element of Functional Integration**

The proposed WBI Canadian pipeline's status as a federal work is not at issue. It is a pipeline within the meaning of the *National Energy Board Act*, notwithstanding its short length and the fact that it is comprised of line pipe only. It falls under federal jurisdiction because it reaches the Saskatchewan/North Dakota border and because it directly sends natural gas across that border in international trade. In my view, regulation of the Steelman/North Portal Extension by the Board is not necessary to enable the Board to regulate the WBI Canadian pipeline effectively. There is nothing on the record of this case to suggest otherwise.

The physical dependence of the WBI Canadian pipeline on the Steelman/North Portal Extension for a supply of gas seems to have compelled the majority to raise the jurisdictional question. It is also the fact which underlies the majority's finding that the two lines are functionally integrated as indicated by the following statements: "... the inescapable conclusion is the WBI Canadian line is clearly not independent of the putative provincial work or undertaking" because "once constructed and operations commence, the WBI Canadian line cannot be physically operated without the new TransGas line which will also provide WBI Canadian's entire gas supply."<sup>22</sup>

An absence of physical dependence, of course, graphically illustrates the absence of functional integration. This was the case in *Central Western* with the finding that CN was not dependent on the services of the Central Western Railway for its operations. Its operations could not be disrupted in any significant way if deliveries from the Central Western Railway were disrupted as a result of a labour dispute. Thus, in my view, the federal government's oversight over CN could not be impaired as a consequence.

A similar conclusion was reached by the Federal Court of Appeal in the Cyanamid case. The proposed Cyanamid pipeline, to be built within Ontario from a point of interconnection with the interprovincial pipeline operated by TransCanada PipeLines Limited ("TransCanada") to an industrial plant, was held to be under provincial jurisdiction because TransCanada's operations as a whole did not depend on it. Again, in my view, the integrity of the Board's regulatory control of TransCanada as a major interprovincial transmission system could not be affected by the absence of federal control over the Cyanamid pipeline. I note that the Cyanamid pipeline, had it been built, would have depended solely upon TransCanada for gas supply.

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<sup>21</sup>*Submission of TransGas Limited*, 9 July 1993 at page 19.

<sup>22</sup>NEB, *Reasons for Decision GH-R-1-93* at page 16.

On the other hand, the same court reached a different conclusion in respect of the terminalling facilities owned by Dome Petroleum Ltd. and others which were connected to the federally-regulated pipeline system operated by Cochin Pipe Lines Ltd. ("Cochin").<sup>23</sup> From a regulatory perspective, the issues at hand were access to these facilities and the tolls to be charged for their use. Had the terminalling facilities not been brought under federal control, the Board's ability to regulate the provision of transportation services on the Cochin system would have been impaired significantly. A similar concern has not been raised in respect of the accumulation and injection facilities connected to the upstream end of the Cochin system in Fort Saskatchewan, Alberta and upon which the Cochin system depends.

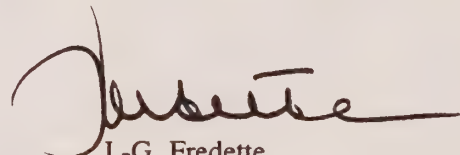
In the present case, the question which arises is: does the dependence of the WBI Canadian pipeline on the Steelman/North Portal Extension inexorably lead to a finding of functional integration between the two? I do not believe so absent a compelling reason to bring the regulation of the Steelman/North Portal Extension into the federal sphere in order to protect the regulatory scheme applicable to the WBI Canadian pipeline.

There has to be a point at which a federally-regulated pipeline, such as the WBI Canadian pipeline, transporting gas in international trade receives its gas supply without affecting the jurisdictional status of the upstream, provincially-regulated pipeline to which it is connected. Otherwise there would be few, if any, provincially-regulated pipelines and division of powers over works or undertakings, such as pipelines, would not be respected.

#### **6.1.1.4 Conclusion**

I did not agree with the Board's original decision of 25 February 1993 to assert federal jurisdiction over the Steelman/North Portal Extension in the event it is connected to the WBI Canadian pipeline. My views have been reinforced on the basis of the additional facts brought forward by TransGas and its submission in this review application.

The facts in the case, to my way of thinking, conclusively demonstrate that these two lines operate independently of each other in their respective spheres of activity while enjoying a mutually beneficial relationship. I am satisfied that the jurisdictional line between them can be drawn at North Portal, Saskatchewan.



J.-G. Fredette  
Vice Chairman

#### **6.1.2 Dissenting Opinion of C. Bélanger**

I did not agree with the Board's decision of 25 February 1993 to dismiss the application of WBI Canadian dated 9 October 1992 on jurisdictional grounds. In the matter of the TransGas review application, while I agree with the majority's decision to approve the WBI Canadian application, I do

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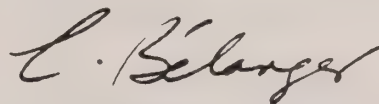
<sup>23</sup>*Dome Petroleum Ltd. v. National Energy Board*, [1987] 73 N.R. 135 (F.C.A.).



not agree with the majority's decision to assert jurisdiction over the Steelman/North Portal Extension in the event it is connected to the WBI Canadian pipeline.

My colleague, Mr. Fredette, marshals a substantial case in favour of the result that I also advocate. I associate myself with his views and wish only here to supplement his views on the weight to be given to physical dependence as a measure of functional integration in the circumstances of this case with the following observations.

I do not find that federal interests are advanced by severing the Steelman/North Portal Extension from the TransGas system and combining it with the WBI Canadian pipeline under federal jurisdiction. The result of this action is to create a longer pipeline under federal jurisdiction which exhibits the same characteristic as did the WBI Canadian pipeline on its own. The combined line is still dependent on the TransGas system for its gas supply. Furthermore, this action has an unfortunate commercial impact because it results in increasing the costs of transporting natural gas to the international border. Tolls for transportation service on a stand-alone pipeline from a point of exit from the TransGas system at Steelman to the international border would be higher than those on the applied-for WBI Canadian pipeline because of a higher rate base. This would not be offset by a commensurate decrease in the postage stamp toll on TransGas. While I agree with my colleagues that tolling effects should not be determinative of jurisdictional questions, I find it difficult to ignore the result in this case given that it is not, in my view, offset by a necessary enhancement of federal jurisdiction.



C. Bélanger  
Member

Calgary, Alberta  
May 1994





CAI  
MT76  
- NS3

File: 2500-A000-2

6 April 1994

**TO: PARTIES INCLUDED ON THE BOARD'S ELECTRICAL MATTERS MAILING LIST**

**RE: Power Line Crossing Regulations  
Request for Submissions**

Bill C-23, An Act to Amend the National Energy Board Act, etc., which came into force on 1 June 1990, instituted changes to the circumstances under which it is necessary to obtain leave of the Board to make crossings involving international power lines and other utilities.

Prior to 1 June 1990, the *National Energy Board Act* ("the Act") required that leave of the Board be obtained for all such crossings. Bill C-23 retained this requirement for all international power lines which were in existence as of 1 June 1990, whether they had been authorized by certificates of public convenience and necessity or exemption orders issued by the Board. However, the Act as amended by Bill C-23, contains different provisions for international power lines authorized after 1 June 1990.

Under the amended Act, the location and construction of new international power lines will normally come under provincial jurisdiction providing that there is a designated provincial regulatory agency. The provisions of the Act concerning the location and construction of an international power line under federal jurisdiction would apply only if the applicant files with the Board an election to that effect. These provisions of the Act would also apply to any interprovincial power line which is designated by the Governor in Council as a line that is to be constructed and operated in accordance with a certificate issued by the Board.

The Board has jurisdiction over crossings involving those international and interprovincial power lines which come under its jurisdiction as described above. In addition it has jurisdiction over crossings involving international power lines which are located and constructed under provincial law if the other facility involved in the crossing comes within the legislative authority of Parliament. Under the Act, leave of the Board must be obtained prior to making such crossings.

The Board recognizes that Canadian utilities have dealt competently with such crossings in the past and considers that obtaining Board approval for such crossings would be an unnecessary burden on these companies. For this reason, and in keeping with the government policy towards less regulation, the Board has prepared regulations prescribing the conditions under which leave of the Board for such crossings would not be necessary. These regulations also ensure that crossings will meet the Board's technical requirements while keeping the Board's involvement to the minimum necessary to discharge its duties. A copy of the proposed regulations is attached to this letter.





## **Consultation Process**

The Board is conducting this consultation process in order to seek input from interested parties.

Parties wishing to comment on the attached draft Power Line Crossing Regulations are requested to do so by 6 May 1994.

## **General**

Parties are asked to quote File No. 2500-A000-2 when corresponding with the Board on this matter. Comments filed with the Board by interested parties will be available for viewing, during normal business hours, in the Board's library located on the ground floor at:

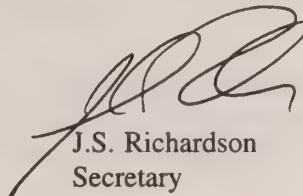
311-6th Avenue S.W.  
Calgary, Alberta  
T2P 3H2

Correspondence to the Board should be addressed to:

The Secretary  
National Energy Board  
311-6th Avenue S.W.  
Calgary, Alberta  
T2P 3H2

Telephone (403) 292-4800  
Fax (403) 292-5503

For further information concerning this matter, please contact Ralph Poirier at (403) 299-3174.



J.S. Richardson  
Secretary



**REGULATIONS RESPECTING CROSSINGS OF INTERNATIONAL POWER LINES  
AND DESIGNATED INTERPROVINCIAL POWER LINES  
WITHOUT LEAVE OF THE NATIONAL ENERGY BOARD**

*Short Title*

1. The Regulations may be cited as the Power Line Crossing Regulations.

*Interpretation*

2. In these Regulations,

"Act" means the *National Energy Board Act*; (*Loi*)

"crossing" includes

- (a) the construction of an international power line or designated interprovincial power line across, on, along or under a facility or a utility; and
- (b) the construction of a facility across, on, along or under an international power line or designated interprovincial power line including any excavation using power-operated equipment or explosives within thirty metres of an international power line or designated interprovincial line; (*croisement*)

"CSA" means the Canadian Standards Association; (*CSA*)

"facility" means:

- (a) any structure that is constructed or placed on the right-of-way of an international power line or designated interprovincial power line; and
- (b) any highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telegraph, telephone line or line for the transmission of hydrocarbons, power or any other substance that is to be carried across, along, on or under any international power line or designated interprovincial power line; (*installation*)

"facility owner" means a person, firm, public agency, corporation or any combination thereof that owns a facility or that undertakes or has control over one or more of the activities related to construction, installation, operation, maintenance or removal of a facility; (*propriétaire d'installation*)

"holder" means the holder of a permit or certificate issued in respect of an international power line or designated interprovincial power line; (*titulaire*)

"permission" means:

- (a) the consent given by a holder to a facility owner to construct or install a facility or to excavate; or





- (b) the consent given by a facility owner to a holder to construct or install a power line; (*permission*)

"power line" means an international power line, or an interprovincial power line, in relation to which an order under section 58.4 of the Act is in force. (*ligne de transport d'électricité*)

"utility owner" means a person, firm, public agency, corporation or any combination thereof that owns a utility or that undertakes or has control over one or more of the activities related to construction, installation, operation, maintenance or removal of a utility. (*propriétaire d'installation de service public*)

### *Application*

3. These regulations apply to:

- (a) international power lines authorized by certificates of public convenience and necessity or orders issued prior to 1 June 1990;
- (b) international power lines authorized by certificates of public convenience and necessity issued on or after 1 June 1990, following the filing of an election under section 58.23 of the Act;
- (c) crossings involving international power lines authorized by permits issued on or after 1 June 1990, where the facility involved in the crossing is within the legislative authority of Parliament;
- (d) those portions of international power lines, authorized by permits or certificates of public convenience and necessity issued on or after 1 June 1990, which are within a province in which no provincial regulatory authority has been designated under section 58.17 of the Act;
- (e) interprovincial power lines in respect of which an order made under section 58.4 of the Act is in force.

### *Design and Construction Standards for Crossings*

4. All crossings shall be designed and constructed in accordance with:

- (a) CSA Standard CAN3-C-22.3 No. 1-M87, Overhead Systems, dated April 1987, for overhead crossings; or
- (b) CSA Standard CAN3-C-22.3 No. 7-M86, Underground Systems, dated February 1986, for underground crossings.



*Crossing of a Power Line by a Facility*

5. Leave of the Board to construct a facility across, on, along or under a power line or to excavate using power-operated equipment within thirty metres of a power line, pursuant to subsection 58.31(1) or subsection 112(1) of the Act, is not necessary where:

- (a) written permission has been obtained by the facility owner from the holder; and
- (b) a procedure and schedule for the work have been agreed to by the holder and the facility owner.

*Crossing of a Facility or a Utility By a Power Line*

6. Leave of the Board to construct a power line across, on, along or under a facility, pursuant to subsection 58.29(1) of the Act, or a utility, pursuant to subsection 108(2) of the Act, is not necessary where:

- (a) written permission has been obtained by the holder from the facility or utility owner affected; and
- (b) a construction procedure and schedule have been agreed to by the holder and the facility or facility owner; and
- (c) the termini of the power line will not thereby be extended.







File: 134-A000-3

28 April 1994

TO: **ALL INTERESTED PERSONS**

RE: **GUIDELINES FOR FILING REQUIREMENTS**

As indicated in the Board's letter of 29 January 1993, requesting comments on the revised draft of the *NEB Rules of Practice and Procedure* ("the Rules"), the Board has decided to remove the filing requirements from the Rules and issue them as guidelines. This will allow greater flexibility to the Board to reflect policy and other changes in these requirements.

The Board has prepared the attached draft *Guidelines for Filing Requirements* ("the Guidelines"). The filing requirements as contained in the 1987 draft Rules have been amended and updated to reflect current policy. As well, certain other filing requirements, previously contained in other documents have been included. Specifically, the filing requirement from the Early Public Notification Memorandum of Guidance, from the Guidelines for the Preparation of Regional Socio-Economic Impact Assessments, for leave to open from the *Onshore Pipeline Regulations* and filing requirements for orders from the Memorandum of Guidance for Short-term Gas Export Orders and Long-term Gas Export Licences have been included.

It is also the Board's intention to include in the Guidelines, once finalized, the recently released Memorandum of Guidance on Quarterly Surveillance Reports to be filed pursuant to the *Toll Information Regulations*.

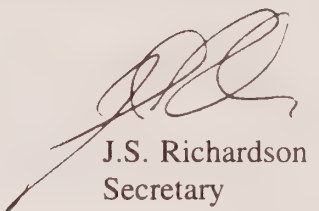
While the information requested in the Guidelines is essential for an application to be set down for hearing, parties should be aware that the Board may, at any time, request further information. When filing an application, parties should provide the level of detail of information corresponding to the nature and magnitude of the project.

The references in these Guidelines to the Rules and the *National Energy Board Part VI Regulations* are to those documents submitted to the Department of Justice for review in April 1993. While not yet in effect, these documents are available from the Board to assist in this review. Parties should note that the Board expects significant drafting, but not substantive, changes to be made to those documents.

Parties wishing to comment on the proposed changes are requested to file 35 copies of their submission by 9 June 1994.

Copies of the Guidelines and other background documents (in both English and French) may be obtained from the Board's Library, ground floor, 311 - 6th Avenue S.W. or by telephoning the Board's Regulatory Support Office at (403) 292-4800. For further information about the Guidelines or the procedure for this review, contact Margery Fowke, Legal Counsel, at (403) 299-2708.

Yours truly,



J.S. Richardson  
Secretary

Attach.

National Energy Board



Office national de l'énergie

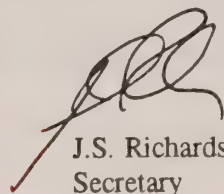
CA  
MT76  
-NS3File No.: 132-1  
14 June 1994

TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER  
INTERESTED PARTIES

Re: Addendum to the National Energy Board Memorandum of Guidance dated  
7 July 1993 on Process Reforms Concerning Electricity Export and  
International Power Line Applications

The National Energy Board Memorandum of Guidance, dated 7 July 1993, on Process Reforms Concerning Electricity Export and International Power Line Applications ("MOG") provides, in Appendix I, examples of Notices of Application and Directions on Procedure ("NOA/DOP"). In order to meet the public notice requirements of the Act, all applicants are required to publish an NOA/DOP at the time an application is filed with the Board. Specifically, Appendix I(a) of the MOG provides an example of the notice required to be published for firm or interruptible electricity exports.

Currently, Appendix I(a) of the MOG states in a footnote that in considering the impact of the export on the environment, the jurisdiction of the Board incorporates matters relating to the impact of sending electricity from Canada but does not include any environmental impact associated with the production of electricity for export. However, as a result of the judgement of the Supreme Court of Canada in Québec (Attorney-General) v. Canada (National Energy Board), [1994], 1 S.C.R. 159, it is clear that this is no longer applicable. Therefore, the Board has decided to revise Appendix I(a) of the 1993 MOG by removing the footnote. A copy of the revised version of Appendix I(a) is attached for your information.



J.S. Richardson  
Secretary

Attachment





**EXAMPLE OF NOTICE TO BE PUBLISHED  
FOR ELECTRICITY EXPORTS**

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**Notice of Application and Directions on Procedure  
Alpha Electric  
Application to Export Electricity to the Omega Power Authority  
of the United States**

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By an application dated 1 July 1993, Alpha Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Division II of Part VI of the *National Energy Board Act* ("the Act") for authorization to export 500 megawatts of firm power and 2 000 gigawatt-hours per year of firm energy for a period of 5 years commencing on 1 November 1993. This export would be in accordance with the terms of the firm power and energy contract between Alpha Electric and the Omega Power Authority executed on 1 June 1993.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (the Applicant's address) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1993).
3. Pursuant to Section 119.06(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:
  - (a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;



- (b) the impact of the exportation on the environment; and
  - (c) whether the applicant has
    - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
    - (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada.
4. The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects and the directly-related socio-economic effects of the proposal. Written comments to be considered during the Board's assessment shall be filed with the Secretary and should accompany any submissions parties file to the application by (insert same date as in number 2 above, i.e. 31 July 1993).
5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1993).
6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1993).
7. For further information on the procedures governing the Board's review, contact J.S. Richardson, Secretary (403) 299-2711 facsimile: (403) 292-5503.







National Energy Board

Office national de l'énergie

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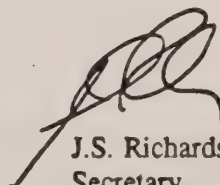
File No.: 132-1  
14 June 1994

TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER  
INTERESTED PARTIES

Re: Addendum to the National Energy Board Memorandum of Guidance dated  
7 July 1993 on Process Reforms Concerning Electricity Export and  
International Power Line Applications

The National Energy Board Memorandum of Guidance, dated 7 July 1993, on Process Reforms Concerning Electricity Export and International Power Line Applications ("MOG") provides, in Appendix I, examples of Notices of Application and Directions on Procedure ("NOA/DOP"). In order to meet the public notice requirements of the Act, all applicants are required to publish an NOA/DOP at the time an application is filed with the Board. Specifically, Appendix I(a) of the MOG provides an example of the notice required to be published for firm or interruptible electricity exports.

Currently, Appendix I(a) of the MOG states in a footnote that in considering the impact of the export on the environment, the jurisdiction of the Board incorporates matters relating to the impact of sending electricity from Canada but does not include any environmental impact associated with the production of electricity for export. However, as a result of the judgement of the Supreme Court of Canada in Québec (Attorney-General) v. Canada (National Energy Board), [1994], 1 S.C.R. 159, it is clear that this is no longer applicable. Therefore, the Board has decided to revise Appendix I(a) of the 1993 MOG by removing the footnote. A copy of the revised version of Appendix I(a) is attached for your information.



J.S. Richardson  
Secretary

Attachment



**EXAMPLE OF NOTICE TO BE PUBLISHED  
FOR ELECTRICITY EXPORTS**

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**Notice of Application and Directions on Procedure  
Alpha Electric  
Application to Export Electricity to the Omega Power Authority  
of the United States**

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By an application dated 1 July 1993, Alpha Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Division II of Part VI of the *National Energy Board Act* ("the Act") for authorization to export 500 megawatts of firm power and 2 000 gigawatt-hours per year of firm energy for a period of 5 years commencing on 1 November 1993. This export would be in accordance with the terms of the firm power and energy contract between Alpha Electric and the Omega Power Authority executed on 1 June 1993.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (the Applicant's address) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1993).
3. Pursuant to Section 119.06(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:
  - (a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;





- (b) the impact of the exportation on the environment; and
  - (c) whether the applicant has
    - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
    - (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada.
4. The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects and the directly-related socio-economic effects of the proposal. Written comments to be considered during the Board's assessment shall be filed with the Secretary and should accompany any submissions parties file to the application by (insert same date as in number 2 above, i.e. 31 July 1993).
5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1993).
6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1993).
7. For further information on the procedures governing the Board's review, contact J.S. Richardson, Secretary (403) 299-2711 facsimile: (403) 292-5503.



National Energy Board



Office national de l'énergie

File: 4600-A000-3

5 July 1994

To: Interested Persons

Re: Possible Changes to the Secondary Market for Natural Gas Transportation Services

The National Energy Board (the "Board") is considering some changes to the rules governing the way in which transportation services are traded on the secondary market for Alberta Natural Gas Company Ltd. ("ANG"); Foothills Pipe Lines Ltd. ("Foothills"); TransCanada PipeLines Limited ("TransCanada"); and Westcoast Energy Inc. ("Westcoast").

The Board is aware that some pipelines are planning to establish state-of-the-art electronic bulletin boards ("EBBs") which will, among other things, provide shippers with immediate access to information on available capacity and facilitate the trading of this capacity amongst shippers. The Board believes that this raises issues which may require some regulatory actions to encourage the optimal development and use of these EBBs on Board-regulated natural gas pipelines.

Attached is a discussion paper which provides: background on the development of the secondary market for transportation services on natural gas pipelines in both Canada and the United States; elaboration on the Board's assessment of current developments; some possible regulatory actions; and a list of questions. The Board requests that interested parties file their comments on the suggested actions and list of questions. Parties wishing to comment are requested to file a letter of intent with the Secretary of the Board by 28 July 1994. The Board will then prepare a list of interested parties. Parties' comments must be filed with the Board and served on the other interested parties by 18 November 1994. Parties wishing to file reply comments should file them with the Board and serve them on other interested parties by 16 December 1994.



Yours truly,

J. S. Richardson  
Secretary

Attach.





# Possible Changes to the Secondary Market for Natural Gas Transportation Services

## 1 Introduction

The Board is aware that many significant changes have been occurring in the way natural gas is bought and sold in both domestic and export markets. Over the last several years, ongoing innovations in both sales and transportation contracting practices have provided market participants with greater choice and flexibility in managing their sales and transportation arrangements. These changes have resulted in a highly competitive, increasingly integrated North American natural gas market.

The Board has implemented various decisions over the years which have facilitated the development of new market mechanisms. It seeks continually to anticipate and respond to the changing requirements of the market place.

One area that has been rapidly evolving is the secondary market for natural gas transportation services. The Board is aware that some pipelines are planning to establish state-of-the-art EBBs which will, among other things, provide shippers with immediate access to information on available capacity and facilitate the trading of this capacity amongst shippers. The Board believes that this raises issues which may require some regulatory actions to encourage the optimal development and use of these EBBs on Board-regulated natural gas pipelines. Accordingly, the Board is proposing some possible actions and requesting parties' comments on the proposals.

Section 2 of this paper provides a brief review of the historical evolution of the natural gas market in Canada and the United States, and of the current status of the secondary gas market. Section 3 provides a brief assessment of the current status of the secondary market in Canada and section 4 sets out some possible regulatory actions upon which parties are invited to comment. Finally, section 5 contains a list of questions to which interested parties are invited to respond.

## 2 Background

### Development of Natural Gas Transportation Markets in Canada

Prior to 1985, the natural gas transportation marketplace in Canada was characterized by a few merchant pipelines, various local distribution companies ("LDCs") and large supply aggregators who bought and sold gas under long-term contracts. Producers sold their gas production to the pipelines or aggregators, and end-users purchased gas as a "bundled" commodity at a price which included both the gas and transportation as an inseparable package. The marketplace for natural gas sales was fully regulated.

On 28 March 1985, the Governments of Canada, British Columbia, Alberta and Saskatchewan agreed that a more flexible and market-oriented pricing regime was required for domestic pricing of natural gas (the Western Accord). The Agreement on Natural Gas Markets and Prices ("the Agreement"), dated 31 October 1985, created the conditions for such a regime. The Agreement foresaw the development of a competitive natural gas market through the displacement of the

former bundled sales by direct sales between producers and end-users.

Since 1985, proceedings before the Board have resulted in numerous changes to the tariffs of Board-regulated pipelines. These changes have provided shippers with increasing flexibility in choosing the term and type of transportation services which best satisfy their particular requirements. For example, in 1985 the Board approved a procedure which allowed the introduction of direct sales and eliminated the potential problem of shippers having to pay double demand charges (once to TransCanada and once to an LDC). In 1988, the Board authorized the unbundling of TransCanada's sales and transportation functions, approved the removal of tariff restrictions on diversions, and established the principles by which transportation services could be brokered or assigned. Most notably, the Board approved provisions on TransCanada's system which have permitted shippers to obtain firm transportation service on a minimum one-year term and to assign those rights on either a temporary or permanent basis to a third party shipper (the "assignee"). In addition, shippers have been provided with increasing flexibility to divert gas to other destinations and to utilize backhaul services and storage options.

These changes have facilitated the development of a very active secondary market on TransCanada's system. Although a secondary market has not evolved to the same extent on other Board-regulated pipelines, the conditions for non-discriminatory open access have been established for each of them.

#### Development of Natural Gas Transportation Markets in the United States

In 1985, the natural gas transportation marketplace in the United States was similar to that which existed in Canada. The marketplace was characterized by few contracts largely held by merchant pipelines and various LDCs. Access to capacity was restricted to those shippers willing and able to commit to long-term contracts, generally of 15 years or more. The marketplace for natural gas sales was in the early stages of deregulation.

Order 436, issued by the Federal Energy Regulatory Commission (the "FERC") in 1985, provided for open access transportation service on interstate natural gas pipelines in the United States. However, various legal challenges and concerns over liabilities held by inter-state pipelines under take-or-pay gas purchase contracts delayed the full implementation of an open market for transportation service. In April 1992, FERC issued Order 636, which mandated non-discriminatory access to transportation and fostered an active, non-discriminatory and open secondary market for capacity. Following a re-hearing order in July 1992, the Order was implemented by 1 December 1993 for all interstate pipelines. Experience with the order to date indicates that open access is functioning to the benefit of shippers on interstate natural gas pipelines.

#### Current Status of the Secondary Market on Canadian and U.S. Natural Gas Pipelines

The primary market for capacity can be defined as that market in which a shipper enters into a formal transportation services contract with a pipeline under an approved tariff. The secondary market for capacity can be defined as that market in which a shipper who holds a transportation



contract enters into an agreement with another shipper to transfer its rights to transportation, with or without the knowledge of the pipeline company. In the secondary market, a prospective shipper (assignee) makes arrangements with an existing shipper (assignor) to transport gas on the pipeline under the contract of the existing shipper. As described below, transactions in the secondary market can be temporary or permanent, formal or informal.

The most active secondary market on Board-regulated pipelines takes place with respect to capacity on TransCanada's system. Capacity is traded on TransCanada's system on the following conditions:

- A permanent assignment of transportation service rights from one shipper to another can be effected through a formal request to TransCanada and execution of agreements by TransCanada, the assignor and the assignee. Under this arrangement the assignor gives up all rights to capacity on the pipeline and is relieved of all obligations to the pipeline; the assignee assumes all the rights and obligations provided for in the transportation contract.
- A temporary assignment of transportation service rights can similarly be effected through execution of agreements by the assignor and the assignee, with notice provided to TransCanada. Under this arrangement, the assignor still remains obligated for the payment of demand charges to the pipeline in the event of default of the assignee. The assignee is obligated to the pipeline for payment of tolls for the period of the assignment.
- Rights to transportation can also be traded between shippers without the knowledge of TransCanada through a simple agreement between assignor and assignee. Under this arrangement the existing shipper remains fully liable to the pipeline for all charges. The agreement between the assignor and assignee would normally address liability.
- TransCanada allows even less formal arrangements to reallocate capacity in the form of Receipt and Delivery nomination "Handshakes". Under a Receipt Handshake, the assignor simply advises TransCanada that the assignee will be taking gas at TransCanada's receipt point. Under a Delivery Handshake, the assignor simply advises TransCanada that the assignee will take delivery at the delivery point.

TransCanada facilitates assignments by posting availability of assignments on its EBB and by listings in its publication, ShipperNews. Whenever capacity is traded, the shipper who obtains the capacity also obtains all other rights that a shipper normally holds, such as the right to divert gas, subject to the terms of the tariff.

Provisions in Westcoast's tariff permit assignments but only with the approval of Westcoast. Foothills similarly permits the assignment of capacity with its approval. The current level of activity in the secondary market on Westcoast and Foothills is not significant.

The secondary market on ANG is in the early stages of development. Prior to November 1993, there were very few shippers on ANG. Since the expansion of the system came on-stream on

1 November 1993 and the coincident termination of the Alberta and Southern gas sales contract to Pacific Gas & Transmission Company, the number of shippers on the ANG system has increased from three to about forty.

In the United States, new capacity release and relinquishment procedures which apply to all pipelines have been implemented pursuant to FERC Order 636. Capacity may be obtained or released as follows:

- all capacity transactions on FERC-regulated pipelines must be posted on the pipeline's EBB;
- this includes pre-arranged deals, temporary and permanent capacity releases, and capacity which comes available as a result of the expiration of a transportation agreement (most renewal rights have been suspended);
- the terms and conditions of release are determined by the releasing shipper but they must be non-discriminatory;
- parties wishing to obtain some or all of the capacity posted on an EBB must pre-qualify (i.e. meet the pipeline's financial requirements) and submit a bid indicating the price bid and the term;
- the bid price cannot exceed the regulated cost of service toll (the "as-billed rate");
- the party submitting the best bid, as determined by the releasing shipper's criteria (usually assessed on a present value basis), will be awarded the capacity;
- where all parties bid the same, a tie breaker, specified by the releasing shipper, is utilized;
- if the capacity open to bid is from an expired contract, the contract holder may retain the capacity by matching the best bid offered (the "right of first refusal");
- pre-arranged deals which are set at the as-billed rate or which are for terms of 30 days or less are not subjected to competitive bids; and
- in instances where a pre-arranged deal goes to a competitive bid, the assignee involved in the pre-arranged deal can retain the capacity rights by matching any competing bid.

To ensure consistency between the many EBBs being developed, FERC recently issued an order which sets the standards to which all the EBBs on inter-state pipelines must adhere.

In summary, open access and an active secondary market in Canada, at least on TransCanada's system, has been in place for several years. With the implementation of Order 636, non-discriminatory open access is now in operation on all U.S. inter-state natural gas pipelines.



### 3 Assessment of the Current Canadian Situation

The operation of the secondary market on TransCanada, along with other mechanisms such as backhauls and storage options, has provided numerous benefits to shippers. These mechanisms allow natural gas shippers to better manage their risk exposure, help ensure that available capacity is allocated to those shippers who value it most highly, and improve the ability of shippers to effectively compete in the market place. In addition, by providing a mechanism for a shipper who has no need of capacity to transfer its transportation rights, the operation of the secondary market helps ensure that the utilization of the pipeline system is optimized.

As noted in the foregoing section, however, the secondary market is not equally well-developed on all Canadian natural gas pipelines. Furthermore, the current system under which transportation rights are traded is not completely transparent and not all information is equally available to all shippers.

Finally, shippers are presently not permitted from selling pipeline capacity to one another at prices above the regulated toll. Although most sales of transportation capacity on the secondary market currently take place at prices below the regulated toll, there may be instances when demand is such that some shippers would be willing to pay a premium; for example, during a peak demand period. In these instances, available capacity may not be used in the most economic manner because the pricing mechanism, which serves to allocate capacity to those who value it the most, is constrained.

The Board is aware that various pipelines are working to develop advanced EBBs which are intended, among other things, to provide information on the availability of capacity to all shippers on a real-time basis. The Board is also aware that these pipeline companies have solicited input from shippers in designing their planned EBBs. Nonetheless, the Board believes that the establishment of these EBBs raises a number of questions which are of interest to all parties who participate in natural gas transportation and, hence, merit discussion within the regulatory arena:

- In order to ensure consistency and equal availability of information to all shippers, should all pipelines be required to implement EBBs by a target date (e.g. 1 November 1995)?
- In order to allow for equal opportunity to obtain rights to available capacity, should all transactions on the secondary market, including pre-arranged deals, be posted on the EBBs and subjected to a competitive bidding process? On the other hand, would such a requirement unduly constrain the flexibility of shippers to make arrangements which suit their market requirements?
- In order to ensure that available capacity is allocated to those shippers who most highly value it, should the current restriction on assigning capacity at prices above the regulated cost of service toll be removed?

The Board believes that resolution of these questions could facilitate the timely establishment of effective EBBs and suggest appropriate adjustments to the regulatory framework.

#### **4 Possible Regulatory Actions**

The Board is of the view that the terms and conditions on which shippers have access to transportation services in the secondary market on Board-regulated pipelines should be consistent with two principles:

- all shippers should have equal opportunity to obtain capacity released into the secondary market; and
- available capacity should be traded in a manner that allows for the optimization of the use of the pipeline and allows the capacity to be allocated to those shippers who mostly highly value it.

Accordingly, the Board is considering the following possible actions which, it believes, are consistent with the above principles:

- (i) ANG, Foothills, TransCanada and Westcoast be required to establish, by 1 November 1995, EBBs through which all transfers of capacity must be posted. Any shipper who wishes to release capacity on either a temporary or permanent basis would be required to post its proposal on the EBB. Parties would bid on this capacity, with the capacity being awarded to the party who files the highest bid. As the releasing shipper would normally specify the term for which the capacity is to be released, the winning bid would normally be the highest price or, alternatively, the one that yielded the highest present value to the releasing shipper.
- (ii) The cap on the price of transfers of capacity in the secondary market be removed and parties be allowed to trade space at any price which emerges from the competitive bidding process outlined in (i) above.

The Board is interested in receiving parties' comments on these proposals and upon the list of questions which follows.

## 5 List of Questions

1. Are there reasons why any of the proposed natural gas pipelines (ANG, Foothills, TransCanada and Westcoast) should be excluded from this proposal?
2. In order to facilitate ease of use across pipelines, should the pipelines be required to establish common syntax and formats for their EBBs? Should there be consistency with the EBBs used by U.S. interstate natural gas pipelines?
3. Should all transactions on the secondary market be required to be posted on an EBB and be made subject to a competitive bidding process? Should there be exemptions for certain types or classes of assignments (e.g. assignments of 30 days or less)?
4. Are there reasons why the price cap on transfers of capacity should be retained? In particular, is there a possibility of abuse on the part of large shippers who may hold a dominant position on one or more pipeline systems? If so, are there mechanisms which could be implemented to prevent potential abuse?
5. What criteria should be satisfied for a party to participate in the secondary market?
6. Is the proposed method of determining the highest bid for capacity in the secondary market appropriate? What mechanism should be implemented to allocate available capacity in the event of "ties" between shippers in the bidding mechanism?
7. Would removal of the price cap on assignments of capacity in the secondary market be compatible with section 62 of the NEB Act? Does the definition of a "company" under section 60 of the NEB Act in any way preclude the trading of pipeline space at unregulated prices on the secondary market?
8. What procedures should be followed to implement the proposals and required tariff changes? For example, should each Group I pipeline company be required to obtain approval for its specific EBB pursuant to a Part IV filing with the Board?
9. Would removal of the price cap in the secondary market be consistent with established transportation access and allocation policies on Canadian pipelines?





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National Energy Board



Office national de l'énergie

File No. 3600-A001-15

Date: 6 July 1994

To: All Interested Parties, and  
All Pipeline Companies Under the National Energy Board's Jurisdiction

**RE: SECTION 58 STREAMLINING INITIATIVE**



The Board has reviewed with interest the many submissions filed in response to the Board's letter of 8 December 1993 regarding the Streamlining of Section 58 Applications and Related Rate Base Additions. The initiative relates to the handling of specific routine projects and well defined multi-year programs. The Board has not considered changes to the treatment of major projects applied for pursuant to section 58 of the *National Energy Board Act* (the "Act"). The submissions reflected a wide variety of views on the related issues and, despite the lack of consensus, many noteworthy comments and suggestions were made. Further to these comments and suggestions, the Board wishes to set out new regulatory directions.

**Exemption of Routine or Repetitive Projects:**

The Board is persuaded that a number of specific types of repetitive or routine projects are, by their nature, clearly required by the pipeline companies in order to operate and manage a pipeline system. The selected types of projects have been determined to have no environmental effects and the Board has, therefore, made a 12(a) finding pursuant to the *Environmental Assessment and Review Process Guidelines Order* ("EARP Guidelines Order"). The projects have been found by the Board to be required and in the public interest. As such, the Board has decided to issue the attached exemption order to the pipeline companies listed in Schedule "B" in respect of the projects listed in Schedule "A" to the attached order. Adherence to the requirements of the *Onshore Pipeline Regulations* will ensure the safe installation and operation of any facilities constructed pursuant to this Order. Pipeline companies and interested parties are invited to put forward suggested modifications or additions to this list of projects which may be expanded over time should the new approach be successful. As the Board acquires more experience in the application of the exemption order, it may make modifications to this order and/or make further company specific adjustments, as appropriate.

The attached order specifies several reporting requirements. As noted in condition 1, pipeline companies under the Board's jurisdiction shall, for those projects listed in Schedule A, report annually on any expenditures undertaken in respect of the projects. The issuance of an exemption order does not imply that the Board is approving expenditures for exempted projects for inclusion in rate base. Companies wishing to include such expenditures in rate base must justify them under Part IV of the Act.

Several interested parties have asked the Board to consider a materiality limit on projects for which an exemption order would be issued. The Board has considered this and declines to adopt such an explicit limit. The primary concern which appears to have prompted calls for a materiality limit is that this would prevent large and expensive projects from being exempted from examination. However, the Board is of the opinion that if a project is routine or repetitive and clearly required, a materiality limit would be an unnecessary qualification. The secondary concern was that without a materiality limit, companies might make unnecessarily large expenditures. This concern is grounded in the misconception that approval of a project under Part III of the Act implies approval of the inclusion of the specific expenditures made in respect of that project in rate base. The Board wishes to restate that it remains for a company seeking to recover these expenditures to justify them under Part IV of the Act.

The Board is, however, interested in ensuring that ongoing communications with pipeline companies regarding operational plans is not diminished. As such, the order includes various reporting requirements including a requirement to advise the Board 60 days prior to construction of any planned projects for which the anticipated expenditure is greater than \$200,000. The Board directs each Group I pipeline company to serve such reports on its Section 58 Interested Parties List.

#### **Multi-Year Projects:**

The Board expects companies to continue to apply for Board approval of those projects not listed in Schedule A. However, many projects undertaken by pipeline companies are part of a well defined multi-year program. The Board is of the view that a large number of those projects are well suited to a single, one-time examination at the commencement of the program. Therefore, the Board will entertain applications relating to multi-year projects which may be filed by the companies. Interested parties would be able to examine such applications and comment. No diminution of scrutiny would result, and this approach would enable companies desiring increased flexibility, the opportunity to seek a one-time exemption rather than file repetitive yearly applications.

A number of comments were received from interested parties regarding the criteria which would be used to determine whether a project could be handled by such a streamlined process. The Board is of the view that the criteria set out in the 8 December 1993 discussion paper are appropriate, with the additional option of submitting projects which may have environmental effects, but for which clear mitigative measures are set out. The eligibility criteria for multi-year applications are as follows:

- i) the project would not be driven by an increase in throughput or changes in the character of service;
- ii) the project would not produce any adverse environmental effects and may, as a result, be automatically excluded from further review pursuant to the *Environmental Assessment and Review Process Guidelines Order* ("EARP Guidelines Order"), or  
  
the project could be adequately defined and mitigative measures set out in sufficient detail to allow the Board to come to a 12(c) finding pursuant to the EARP Guidelines Order;



- iii) the project could be exempted from the provisions of the Board's *Memorandum of Guidance Concerning Early Public Notification*; and
- iv) the application would clearly set out the long-term justification for the well defined multi-year program.

Scope changes which might develop over time would continue to be examined pursuant to section 21 of the Act.

#### **Environmental Initiatives:**

Several interested parties indicated a need for guidelines, standard environmental practices and/or criteria which would allow applicants greater flexibility for identifying projects which would qualify for streamlining. This approach would broaden the eligibility criteria from strictly no environmental effects to include projects for which any environmental effects would be addressed and/or mitigated through standard procedures which would then be adopted and implemented by the applicant.

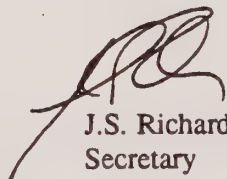
The Board will continue to work with regulated companies to maximize the opportunity for streamlining section 58 applications through the development of standard environmental practices which could be incorporated into company handbooks. The Board is committed also to considering any other streamlining initiatives that may be available under current legislation (i.e. the Act and EARP Guidelines Order) or opportunities which may become available in the future under the *Canadian Environmental Assessment Act* ("CEAA"). The Board invites companies to join in seeking new means of simplifying environmental planning while improving the effectiveness of efforts to minimize environmental impacts. Consensus standards may be one vehicle by which industry and regulators can take advantage of the shared ideas and experience. The Board looks forward to considering any suggestions which may be raised in that regard.

#### **Formalized Procedures:**

A number of parties stated a strong desire to see formalized procedures in place for the examination of section 58 applications. The Board is of the view that such a process would not enhance the ability of all concerned to optimize the effectiveness of the examination process. Interested parties are at liberty to advise the Board of concerns they may have regarding any applied-for project. The Board encourages parties wishing to submit such comments to do so in a timely manner so as not to impede the progress of the regulatory examination. The Board notes that many companies have task forces which examine proposed projects in advance of the related application being filed with the Board. The Board encourages the constructive use of such forums to ensure open communication between the pipeline company and those parties impacted by its programs. The Board directs all Group I companies to maintain current lists of parties interested in receiving section 58 applications, and to serve such applications on those parties promptly. Group I companies are further directed to file with the Board on an annual basis, an updated copy of the Section 58 Interested Parties List.

**Summary:**

The Board is hopeful that the new regulatory direction set out in this document will result in meaningful streamlining. The Board appreciates the efforts of those who filed submissions during this initiative. Looking forward, the Board sees the new direction as one which will develop and evolve over time, and invites each pipeline company to decide to what extent the multi-year provision will be applied-for.



J.S. Richardson  
Secretary

Attachment





**ORDER XG/XO-100-94**

**IN THE MATTER OF** the *National Energy Board Act* (the "Act") and the regulations made thereunder;  
and

**IN THE MATTER OF** a Board initiative regarding exemptions in respect of the addition of specified pipeline facilities under its jurisdiction pursuant to section 58 of the Act, as set out in the Board's discussion paper dated 8 December 1993, file number 3600-A001-15;

**BEFORE** the Board on 13 June 1994.

**WHEREAS** the Board is satisfied that the projects listed in Schedule "A" are routine or repetitive in nature and are required by the pipeline companies listed in Schedule "B";

**AND WHEREAS** pursuant to the *Environmental Assessment and Review Process Guidelines Order* ("EARP Guidelines Order"), the Board has performed an environmental screening and has considered the specified pipeline projects;

**AND WHEREAS** the Board has determined, pursuant to paragraph 12(a) of the EARP Guidelines Order, that the projects, as described in Schedule "A", are of the types identified by the list established pursuant to paragraph 11(a) of the EARP Guidelines Order, and accordingly, are excluded from further assessment under the EARP Guidelines order, and as the Board is not aware of any public concern about the types of projects described in Schedule "A" there is no need to refer them for a panel review;

**AND WHEREAS** the Board considers it to be in the public interest to grant an exemption order in respect of the projects listed in Schedule "A";

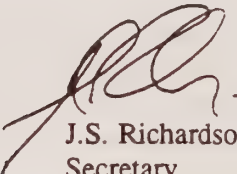
**IT IS ORDERED** under section 58 of the Act that the projects listed in Schedule "A", attached to and forming part of this Order, are exempt from the provisions of sections 30, 31 and 47 of the Act, upon the following conditions:

1. Unless the Board otherwise directs, pipeline companies under the Board's jurisdiction shall, for those projects listed in Schedule "A",
  - a) Advise the Board 60 days prior to construction of any planned projects for which the anticipated expenditure is greater than \$200,000. Such reports must include a statement describing the project, including location(s), and the estimated cost;

- b) Report annually following construction, installation, or procurement on any expenditures undertaken pursuant to this order;
- c) Report immediately to the Board on any air, soil or groundwater contaminants, or any legislated hazardous wastes found during activities related to the construction or installation of the project, and provide a detailed description of the proposed disposal methods; and
- d) For those projects undertaken and of an urgent or emergency nature as categorized by item 9 in Schedule A, report annually to the Board providing a brief description of the project and the nature of the urgency or emergency requiring immediate implementation, including the alternatives considered.

2. Unless the Board otherwise directs, this Order shall expire in respect of any specific pipeline company within 15 days of the date on which that pipeline permanently ceases to operate.

NATIONAL ENERGY BOARD



J.S. Richardson  
Secretary

ORDER XG/XO-100-94

## SCHEDULE "A"

For the purposes of this order, the following definitions apply:

**Repetitive projects:** projects of a type likely to be undertaken repeatedly over time with minimal variation.

**Routine projects:** projects of a conventional type which are neither unique nor extraordinary.

**Replacements due to Obsolescence:** replacement projects of items which, by their nature, are no longer efficient, economic, or safe, and are essential to the operation of the pipeline. Understanding that some degree of upgrade is implicit in such a replacement, the following exemptions are not to be interpreted as including significant upgrades or reworks.

1. Vehicles.
2. Tools and equipment.
3. Office equipment including personal computers and furniture.
4. Projects related to leasehold improvements.
5. Computer hardware and software, excluding new SCADA and leak detection systems.
6. Routine modifications to existing workshop and maintenance facilities, excluding building relocation.
7. Routine repair of buildings, fencing and sites, excluding foundation work or relocations.
8. Routine repair and replacement due to age, condition, or obsolescence, of:
  - a) valves and related equipment, excluding relocations,
  - b) system control, monitoring and detection equipment,
  - c) gas plant equipment<sup>1</sup>,
  - d) meters and related equipment, excluding projects which may increase noise levels,
  - e) mobile equipment,
  - f) battery chargers,
  - g) signage,
  - h) wiring,
  - i) lighting,
  - j) plumbing,
  - k) boilers and heating systems, and
  - l) air conditioning and ventilation systems.
9. Projects which cannot be planned or are of an emergency nature.

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<sup>1</sup>Item 8(c) would only apply to Westcoast Energy Inc.

## SCHEDULE "B"

Alberta Natural Gas Company Ltd	Minell Pipeline Ltd.
Amerada Hess Canada Ltd.	Montreal Pipe Line Limited
Amoco Canada Petroleum Company Ltd.	Murphy Oil Company Limited
Amoco Canada Resources Limited	Niagara Gas Transmission Limited
Aurora Pipe Line Company	Northwest Transmission Company Limited
Blue Range Resource Corporation	Novacor Chemicals (Canada) Ltd.
Bow Valley Industries Ltd.	Peace River Transmission Company Limited
Canadian Hunter Exploration Ltd.	Petroleum Transmission Company
Canadian-Montana Pipe Line Company	Petrorep (Canada) Ltd.
Centra Transmission Holdings Inc.	Poco Petroleums Ltd.
Champion Pipe Line Corporation Limited	Portal Municipal Gas Company Canada Inc.
Cochin Pipe Lines Ltd.	Pouce Coupé Pipe Line Ltd.
Consumers' Gas (Canada) Ltd.	Remington Energy Ltd.
Dome Kerrobert Pipeline Ltd. and Pan Canadian Kerrobert Pipeline Ltd.	Revenue Canada - Customs and Excise
Dome NGL Pipeline Ltd.	SCL Pipeline Inc.
Dome NGL Pipeline Ltd. and Amoco Canada Petroleum Company Ltd.	SCL Quebec Pipeline Inc.
ELAN Energy Inc.	St. Clair Pipelines Ltd.
Ethane Shippers Joint Venture	Sun Pipe Line Company
Foothills Pipe Lines Ltd.	Talisman Energy Inc.
Genesis Pipeline Canada Ltd.	TransCanada PipeLines Ltd.
Huntingdon International Pipeline Corporation	Trans Mountain Pipe Line Company Ltd.
Imperial Oil Resources Limited	Trans-Northern Pipelines Inc.
Interprovincial Pipe Line (NW) Ltd.	Trans Québec & Martimes Pipelines Inc.
Interprovincial Pipe Line Inc.	Union Gas Limited
Inverness Petroleum Limited	Wascana Pipe Line Ltd.
Joint Venturers of the Bi-Provincial Upgrader	Westcoast Energy Inc.
Koch Exploration Canada, Ltd.	Westspur Pipe Line Company (1985) Inc.
Manito Pipelines Ltd.	Yukon Pipelines Limited
Many Islands Pipe Lines (Canada) Limited	167496 Canada Ltd.
Mid-Continent Pipelines Limited	



National Energy Board



Office national de l'énergie

CA1  
MT 78  
- N 53

File 4710-A000-0  
1 December 1994

To: **Regulated Pipeline Companies and Interested Persons**

Subject: **Financial Regulatory Audit Policy**

In 1989, the Board completed an examination of the role of the financial regulatory audits as a regulatory tool. The Board issued a letter, dated 18 October 1989, to all Group 1 companies and eight Group 2 companies, which set out, for their information and guidance, the Audit Terms of Reference, the Regulatory Audit Objectives and the Guidelines on Audit Confidentiality.

Since then, the manner in which toll and tariff regulation is being carried out has evolved. The Board considers it appropriate to update its audit policy taking into consideration comments made by participants in the Incentive Regulation Workshop held in January 1993, and to codify the Board's current audit practices and procedures.

Enclosed for your information is the revised Financial Regulatory Audit Policy which is applicable to all regulated pipeline companies. It is the intention of the Board to conduct audits on an annual basis of Group 1 companies not regulated on a complaint basis. All companies regulated on a complaint basis, including Group 2 companies, will be subject to audit as circumstances dictate.

Your truly,

J. S. Richardson  
Secretary



Enclosure



**Financial Regulatory Audit Policy  
of the  
National Energy Board**

The Board considers audits to be an important regulatory tool for the purposes of ensuring compliance with regulations, orders and decisions, and documenting the extent to which regulated companies operate with due regard for economy and efficiency. Financial regulatory audits will be carried out on the basis of the following objectives, confidentiality guidelines, approach and procedure.

A. Objectives

- (1) To determine if the company's system of accounts has been maintained in accordance with the Board's Gas and Oil Pipeline Uniform Accounting Regulations.
- (2) To determine whether the company has complied with the *National Energy Board Act*, decisions, tariff orders and other accounting and reporting directives.
- (3) To verify that the financial information contained in various company applications or submissions to the Board agrees with the company's records.
- (4) To examine whether cross-subsidies have been made at the expense of tollpayers.
- (5) To maintain up-to-date knowledge of the company, including its regard for economy and efficiency.

B. Audit Confidentiality

While the Board will continue to make its audit reports public, the following guidelines on audit confidentiality will be observed:

- (1) Documents or copies thereof obtained from the company during an audit shall not be placed on the public record.
- (2) For sensitive documents, a company may request that only senior officers of the Board shall have access.
- (3) Should the Board wish to raise a matter arising out of an audit in a public proceeding, the Board will not use documents obtained during the audit as direct evidence. Rather, the Board will request such information directly from the company so that it would have an opportunity to respond as it sees fit.

C. Approach

In carrying out audits, the Board takes note of the opinion expressed by the external auditors on the financial statements of the company, upon which the Board places reliance. The Board will normally not, except in extraordinary circumstances, duplicate the procedures of the external auditors.

The Board focuses its audits on specific issues raised by interested persons in toll proceedings and on matters of concern to the Board. This includes an examination of the extent to which the company has regard for economy and efficiency.

The Board will also observe the extent to which pipeline companies have put in place policy and procedures for establishing performance objectives and for evaluating the results. Such observations could facilitate further examination of the subject matter in toll proceedings.

D. Procedure

- (1) Audit plans, developed by reference to the above audit objectives and approach, are approved by the Board. Before field work commences the company is notified of the scope of the examination, and is consulted on timing.
- (2) Knowledge of a possible violation necessitates an investigation.
- (3) In instances of non-compliance, if voluntary compliance cannot be obtained from the company, the matter shall be referred to the Board for enforcement.
- (4) A draft audit report, which describes all significant observations in detail, is issued by the Board to the regulated company for comments.
- (5) Having considered the comments of the regulated company, a final audit report is released and placed on the public record.



National Energy Board



Office national de l'énergie

CAI  
MT76  
-N 53

23 January 1995

To: All Interested PersonsSubject: Upcoming Public Hearing of Part VI Gas Export Licence Applications

The National Energy Board is planning to hold its next gas export hearing in April 1995 and hereby gives notice to all potential applicants that completed applications must be filed on or before 23 February 1995 in order to be included in the proceeding.

Applications must meet the Board's Part VI filing requirements and must address the criteria contained in the Board's *Reasons for Decision - Proposed Changes to the Application of the Market-Based Procedure - GHW-1-91 - May 1992*.

As neither the *Environmental Assessment Review Process Guidelines Order* nor the *Canadian Environmental Assessment Act* will apply to new applications, any jurisdiction of the Board to consider the potential environmental effects of an application to export gas can be found only under the *National Energy Board Act*.

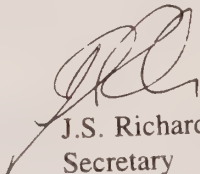
Applicants are requested to file information sufficient to determine if the applied-for export licence and new upstream facilities or activities are integrated to the extent that they can be seen to form part of a single course of action. If such new facilities or activities will be constructed or undertaken, applicants are requested to file an assessment of the potential environmental effects of those new facilities or activities on matters subject to federal jurisdiction and any directly related social effects. If applicable, this requirement may be met by filing:

- (i) a description of the environmental aspects of the regulatory regime applicable to the facility or activity in question;
- (ii) all government authorizations received;
- (iii) summaries of environmental assessments submitted in seeking these government authorizations; and
- (iv) a description of any environmental mitigative measures to which the applicant is committed.

.../2

Following the 23 February 1995 filing deadline, the Board will issue its hearing order and directions on procedure for those applications which are to be included.

Yours truly,



J.S. Richardson  
Secretary



National Energy Board

Office national de l'énergie

CAI  
MT716  
-N 53

Files: 4820-A000-3  
2 February 1995



To: All Interested Persons

Subject: Possible Changes to the Secondary Market for Natural Gas Transportation Services

On 5 July 1994 the National Energy Board (the "Board") issued a discussion paper in which it indicated that it was considering some regulatory action with respect to the operation of secondary markets on four Board-regulated natural gas pipelines. Specifically, the Board stated that it was considering the following actions:

- "(i) ANG, Foothills, TransCanada and Westcoast be required to establish, by 1 November 1995, EBBs through which all transfers of capacity must be posted. Any shipper who wishes to release capacity on either a temporary or permanent basis would be required to post its proposal on the EBB. Parties would bid on this capacity, with the capacity being awarded to the party who files the highest bid. As the releasing shipper would normally specify the term for which the capacity is to be released, the winning bid would normally be the highest price or, alternatively, the one that yielded the highest present value to the releasing shipper.
- (ii) The cap on the price of transfers of capacity in the secondary market be removed and parties be allowed to trade space at any price which emerges from the competitive bidding process outlined in (i) above."

In November, the Board received comments from thirty-eight interested parties and in December reply comments were filed by five parties.

With respect to the first proposal, parties noted that the Board-regulated pipelines in question are actively developing an EBB through a jointly owned company, NrG Information Services Inc. ("NrG"). It was further noted that NrG is consulting extensively with shippers and that the EBB is being designed to meet their needs, including "one-window" access to all the participating pipelines. The majority of parties suggested that these developments be allowed to continue to evolve according to the needs of market participants, without any direct guidance from the Board. A number of parties noted that it would be appropriate for the Board to monitor the ongoing development of EBBs and the secondary market.

The Board has decided that it is not necessary at this time to require shippers to post available capacity for bidding or to require shippers to post the results of secondary market transactions on an "after-the-fact" basis.

.../2

The Board notes that the secondary market has been working well in the absence of direct regulatory oversight. The Board is aware of the combined efforts of the major Canadian natural gas pipelines and Nrg to design an EBB which will respond to their customers' needs. The Board is optimistic that these efforts will result in a product that will enhance the efficiency with which transportation space is traded and utilized, to the benefit of the entire industry. The Board believes that the best approach at this time is to allow parties' maximum flexibility in structuring their secondary market transactions, while being prepared to consider any concerns which parties may bring to its attention as the market evolves.

With respect to the second proposal, an overwhelming majority of the submitters supported removal of the price cap in the secondary market. Most parties agreed that removal of the price cap would be consistent with the workings of an unfettered competitive secondary market and would help ensure that available capacity would be utilized in its highest value end-use. The majority of parties argued that there is sufficient competition amongst parties in the secondary market to prevent abuse by one or more dominant shippers. Nonetheless, a number of parties suggested that the Board monitor the situation, particularly on pipelines with fewer shippers where the competition could be less intense.

The Board has decided that there should be no price cap on secondary market transactions on any Board-regulated natural gas pipelines. Those pipeline companies which have provisions which relate to the price at which capacity can be assigned shall submit revised tariffs to the Board which reflect the decision to remove the price cap on transactions in the secondary market. As per the provisions of section 60 of the NEB Act, services provided by natural gas pipelines under the Board's jurisdiction must continue to be provided according to Board-approved tariffs.

A number of parties commented on issues upon which the Board did not specifically request comments. The Board does not believe it is necessary to address these additional issues at this time. Some of these issues may arise in future proceedings before the Board.

In conclusion, the Board is of the view that, as the secondary market appears to be working well, a minimum of regulatory oversight is required. The Board remains prepared to consider submissions from any interested parties if concerns about the working of this market arise.

Yours truly,



J. S. Richardson  
Secretary



National Energy Board



Office national de l'énergie

CAI  
MT76  
-N 53

File: 134-A000-3

22 February 1995

TO: **ALL INTERESTED PERSONS**

RE: **GUIDELINES FOR FILING REQUIREMENTS**

On 28 April 1994 the Board sent for comment, a draft of the *Guidelines for Filing Requirements* ("the Guidelines"). Ten submissions were received. The Board has taken these comments into consideration and has finalized the Guidelines.

The filing requirements were previously attached as a schedule to the *Rules of Practice and Procedure*<sup>1</sup> ("the Rules"). This schedule and the relevant sections of the Rules have been revoked. As there are no longer any filing requirements in the Rules, the Board is free to make the attached *Guidelines for Filing Requirements*. Any person filing an application of a type which is discussed in the Guidelines is directed to file in accordance with the Guidelines effective immediately.

Some parties requested further opportunity to comment on the Guidelines, or a joint industry/Board task force to discuss the content. In the Board's view, such further consultation would not serve a useful purpose at this time. The Board decided to issue the filing requirements as guidelines rather than as part of the Rules to allow greater flexibility to the Board to reflect policy and other changes. The Board intends that once it acquires experience with these Guidelines it will review the filing requirements and make changes as necessary.

The Board wishes to draw interested persons' attention to several matters.

A new Part I has been added to the Guidelines. In summary, it states that the level of detail required in an application shall be commensurate with the nature and magnitude of the project. The Board recognizes that applications do not all require the same information to be filed and that one set of guidelines cannot cover all situations for all companies. Applicants are expected to use their judgement in determining how much detail to provide. Part I also states that if any information required by the filing requirements does not accompany the application, the applicant shall include an explanation for this. All should be aware that in addition to the filing requirements listed in these Guidelines, the Board may, at any time, request further information.

Interested persons should note that Part I, section 3 refers to section 16 of the *National Energy Board Rules of Practice and Procedure, 1995*. While the Rules have not been finalized, it is expected that they will be in the next few months, therefore, rather than require an amendment at that time, the Board has included this requirement in these Guidelines. Sections 15 and 16 of the Rules state:

<sup>1</sup> C.R.C. 1978, c. 1057.

15. (1) Every application shall

(a) contain a concise statement of the relevant facts, the provisions of the Act or any regulations made under the Act under which the application is made and the nature of, and justification for, the decision or order sought;

(b) contain, in addition to the information that is required by the Act and any regulations made under the Act, any other information that explains or supports the application, including information referred to in published policies and guidelines of the Board; and

(c) set out the name, address, telephone number and any other telecommunications numbers of the applicant and the applicant's authorized representative, if any.

(2) Every application shall be divided into consecutively numbered paragraphs, each of which shall be confined as nearly as is practicable to a distinct portion of the subject-matter of the application.

16. (1) Where any information referred to in section 15 is not filed with the application, the applicant shall attach to the application a statement:

(a) where the information is already in the Board's possession, identifying the information and the circumstances under which it came into the possession of the Board;

(b) where the information is unavailable to the applicant at the time of filing, identifying the date on which the applicant intends to file the required information; or

(c) where the applicant objects to the filing of the information, setting out the objection and the grounds therefor.

(2) Where the Board determines that the grounds for the objection referred to in paragraph (1)(c) are not sufficient, the Board shall so inform the applicant and the applicant shall file the information.

In the Guidelines which were distributed for comment and in this final version of the Guidelines, certain sections were included which would indicate the intent or purpose of asking for the information. Examples of this can be found in Part II, section 3; Part III, section 2 and the introductory words to sections 8 and 9 etc. The Board is of the view that it may be helpful for those preparing an application to know why the Board is asking for the information. This allows the applicant to make such modifications as may be necessary to the filing requirements to provide the Board what is needed.

One party commented on the Early Public Notification provisions asking whether the Board has information available that describes the Board's procedures for reviewing applications which would be available to an applicant to provide to interested persons under Part II, paragraph 4(d). Such information would include the *National Energy Board Act* ("the Act"), the Rules, Information Bulletins etc.

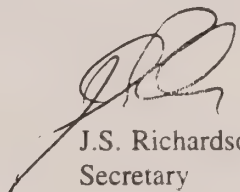
Comments were received with respect to the filing requirements for applications under section 58 of the Act (Parts V and VI of these Guidelines) indicating that the Guidelines should reflect the changes which were included as part of the exemption order issued to streamline section 58 applications. The Board is of the view that the issuance of Board Order XG/XO-100-94 on 6 July 1994 did not affect the section 58 application filing requirements but did require changes to tolls applications (Part X of the Guidelines). If a project is properly the subject matter of the streamlining initiative order the criteria established in the Guidelines would not apply, simply because the project has already been "exempted". An application for a section 58 order granting exemption would not be necessary. Conversely, if the project is not routine or repetitive, then the information contained in the Guidelines would be required to assist the Board in its determination that the project is in the public interest.

Many comments were received on the environmental filing requirements (Part VII of these Guidelines), including comments on wording taken from the *Canadian Environmental Assessment Act* ("CEAA"). Where appropriate, the Board has chosen to use the wording from the CEAA with only such modifications as necessary for context. Specifically, the wording in the definition of "environmental effect" and in paragraphs 9(2)(a) and (b) of Part VII is from the CEAA.

Part VIII was not included in the Guidelines sent for comment. This indicates the information required to be filed with a notice pursuant to section 34 of the Act. These provisions were part of the 1987 Draft Rules, but are not properly the subject of regulations. However, it is open to the Board to issue guidelines on this subject and therefore the new Part has been drafted.

Section 1 of Part X states that unless the Board otherwise orders, an application for an order fixing tolls or tariffs shall contain the information required by that Part. One party suggested that the Guidelines should make specific reference to the Board Orders establishing toll adjustment procedures for liquid pipelines and to the nature of information which must be filed in cases of negotiated settlements. The toll orders referred to<sup>2</sup> and the Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs, issued 23 August 1994 are examples of directions to be considered within the phrase "unless the Board otherwise directs" in section 1.

These Guidelines include the Memorandum of Guidance on Quarterly Surveillance Reports as Part XI. The letter which accompanied and explained that memorandum is attached to this letter.



J.S. Richardson  
Secretary

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<sup>2</sup> TO-7-90 issued to Interprovincial Pipe Line; TO-9-90 issued to TransNorthern Pipelines Inc.; and TO-3-92 issued to Trans Mountain Pipeline Company Ltd.







File No.: 4750-A000-10

16 February 1994

To: Parties Named in the Attached Distribution List

Re: **Review of the Surveillance Reports filed  
pursuant to the Toll Information Regulations**

The Board has considered the comments received from interested parties on the Board's proposal to modify the content and format of surveillance reports filed pursuant to the *Toll Information Regulations*. The Board has decided to issue the attached Memorandum of Guidance, providing guidelines for the preparation of surveillance reports to be filed pursuant to the *Toll Information Regulations*. In adopting these guidelines, the Board took into account parties' comments and revised certain elements of its original proposal as detailed below:

1. Format of Surveillance Reports

The Board continues to believe that the goals of standardization and simplification should be pursued. While some parties argued for the retention of certain information for certain pipeline companies, the Board is of the view that, where possible, all ten Group I companies should be required to file their quarterly information in the same standardized format. This will make it easier to analyze and interpret the data. Concerning the specific requests to retain information pertaining to Rate Base Additions and Capital Cost Overruns, the Board is of the view that this information is too detailed for surveillance purposes. This type of information could be obtained and examined in a Part IV hearing through the information request process. However, the Board has decided to retain the requirement to file information on Intercompany Transactions for TransCanada and Westcoast, but has increased the threshold to \$100,000 in an effort to reduce the reporting requirement.

The Board believes that a schedule showing the breakdown of average rate base would be useful for inclusion in the surveillance report (see new Schedule 2). The Board also believes that ANG's suggestion that the NEB account numbers be shown alongside each reporting item will help facilitate the reporting and interpretation of the quarterly data.

Accordingly, all Group I pipeline companies are to file their quarterly surveillance reports in the standardized format illustrated in Attachment 1 to the attached Memorandum of Guidance. In the case of Foothills, the information should be reported separately for each zone.

With respect to TransCanada's recommendation that pipeline companies file volume-adjusted figures, the Board will allow this to continue for TransCanada on an interim basis, pending further review by the Board.

Concerning IPL's two proposals to streamline its quarterly reporting requirements, the Board will not implement the first proposal to eliminate the schedule on Employee Allocation but will implement the second proposal to eliminate the monthly surveillance report in the month when a quarterly report is issued. An Amending Order is concurrently being issued to IPL to implement this proposal. The Board will treat any similar requests for relief on a case-by-case basis.

IPL requested clarification on what the Board proposed to delete from the IPL(NW) reports. All schedules that do not fit the standardized format found in Attachment 1 are no longer required. This includes the six items contained in Attachment 3 to the Board's discussion paper, which are provided in IPL(NW)'s year-end reports.

## 2. Filing Deadlines

For the first three quarters of each year, the Board has decided that the Group I pipeline companies are to continue filing their surveillance reports no later than 45 days after the quarter. For the year-end report, the pipeline companies are to file their reports no later than 60 days after the quarter. In response to TQM's request for clarification, there is no requirement for the pipeline companies to serve their surveillance reports on all interested parties systematically. Interested parties who wish to receive copies of a particular pipeline company's reports should request service from that company.

The Board has also decided to suspend the requirement to file surveillance reports when the tolls of a pipeline company are interim because, without approved amounts in place to compare actual results to, the surveillance report is not useful and it places an unnecessary filing burden on the pipeline company.

## 3. Threshold for Explaining Variances

The Board agrees that a minimum dollar limit should be established so that the pipeline companies will not be required to explain variances that, although they are above a percentage threshold, are immaterial on an absolute dollar basis. On the other hand, there may be instances where variances are less than the percentage threshold but are large in absolute terms. The Board is of the view that these variances should also be explained. Therefore, the Board has decided that all variances above a minimum dollar limit, irrespective of the percentage variance, should be explained in each company's surveillance report.

Considering the differences in sizes of the Group I pipeline companies, it is not possible to select one minimum dollar limit that would be appropriate for all companies. Therefore, based upon the relative sizes of the companies, the Board has selected the following dollar limit thresholds:

TransCanada	\$1,000,000
Westcoast and IPL	\$500,000
Foothills and TMPL	\$200,000
Cochin, IPL(NW), TNPI, ANG and TQM	\$100,000

The requirement to explain variances greater than the above dollar limits applies to Schedules 1, 2 and 4. For Schedules 3 and 5, variances greater than 10 percent are to be explained.

#### 4. Performance Measures

The Board is of the view that all ten performance measures proposed in the Board's discussion paper dated 4 October 1993 should be retained. The Board notes that the objections largely relate to the way in which the data might be used. As stated in the discussion paper, the principal benefit of having information on performance measures filed regularly is that the Board and interested parties would be able to compare the results for each pipeline over time. Also, the Board recognizes the need for care in interpreting such data.

With respect to the second and third performance measures, the Board has decided that total Operating Expenses is to be provided. However, the pipeline companies may wish to provide a breakdown of Operating Expenses into those expenses over which they consider that they have little influence during the reporting period and those expenses over which management has discretion during the reporting period.

Concerning the additional performance indicators suggested by various parties, the Board has decided not to add them to the list of performance measures at this time.

The Board agrees with Westcoast that its performance measures would be more appropriately reported separately for zones 3 and 4 versus zones 1 and 2.

With respect to the publishing of the performance measure data, the Board believes that this step would increase the transparency of pipeline operations by allowing the Board and all interested parties to observe the results for each pipeline over time. The Board may publish these data from time to time.

#### 5. Time-series Data

In the year-end report, five years of time-series data, in nominal dollars, are to be filed on the performance measures identified above and on the actual and approved rates of return on common equity and the actual and approved rates of return on rate base.

6. Electronic Filing

The Board has decided not to proceed with the filing of surveillance reports via modem at this time. In the future, when the Board's Electronic Regulatory Filing initiative is fully operational and the volume of information to be filed is increased, this option may become more appropriate. Until that happens, the Board requires that all pipeline companies file an electronic version of their reports on diskette, together with the usual number of paper copies.

Yours truly,

*Ann Sicotte*

*J.S.* J.S. Richardson  
Secretary



National Energy Board



Office national de l'énergie

CAI  
MT76  
- N 53

File: 134-A000-3

22 February 1995

TO: ALL INTERESTED PERSONS

RE: GUIDELINES FOR FILING REQUIREMENTS

On 28 April 1994 the Board sent for comment, a draft of the *Guidelines for Filing Requirements* ("the Guidelines"). Ten submissions were received. The Board has taken these comments into consideration and has finalized the Guidelines.

The filing requirements were previously attached as a schedule to the *Rules of Practice and Procedure*<sup>1</sup> ("the Rules"). This schedule and the relevant sections of the Rules have been revoked. As there are no longer any filing requirements in the Rules, the Board is free to make the attached *Guidelines for Filing Requirements*. Any person filing an application of a type which is discussed in the Guidelines is directed to file in accordance with the Guidelines effective immediately.

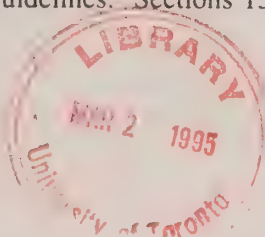
Some parties requested further opportunity to comment on the Guidelines, or a joint industry/Board task force to discuss the content. In the Board's view, such further consultation would not serve a useful purpose at this time. The Board decided to issue the filing requirements as guidelines rather than as part of the Rules to allow greater flexibility to the Board to reflect policy and other changes. The Board intends that once it acquires experience with these Guidelines it will review the filing requirements and make changes as necessary.

The Board wishes to draw interested persons' attention to several matters.

A new Part I has been added to the Guidelines. In summary, it states that the level of detail required in an application shall be commensurate with the nature and magnitude of the project. The Board recognizes that applications do not all require the same information to be filed and that one set of guidelines cannot cover all situations for all companies. Applicants are expected to use their judgement in determining how much detail to provide. Part I also states that if any information required by the filing requirements does not accompany the application, the applicant shall include a explanation for this. All should be aware that in addition to the filing requirements listed in these Guidelines, the Board may, at any time, request further information.

Interested persons should note that Part I, section 3 refers to section 16 of the *National Energy Board Rules of Practice and Procedure, 1995*. While the Rules have not been finalized, it is expected that they will be in the next few months, therefore, rather than require an amendment at that time, the Board has included this requirement in these Guidelines. Sections 15 and 16 of the Rules state:

<sup>1</sup> C.R.C. 1978, c. 1057.



15. (1) Every application shall

(a) contain a concise statement of the relevant facts, the provisions of the Act or any regulations made under the Act under which the application is made and the nature of, and justification for, the decision or order sought;

(b) contain, in addition to the information that is required by the Act and any regulations made under the Act, any other information that explains or supports the application, including information referred to in published policies and guidelines of the Board; and

(c) set out the name, address, telephone number and any other telecommunications numbers of the applicant and the applicant's authorized representative, if any.

(2) Every application shall be divided into consecutively numbered paragraphs, each of which shall be confined as nearly as is practicable to a distinct portion of the subject-matter of the application.

16. (1) Where any information referred to in section 15 is not filed with the application, the applicant shall attach to the application a statement:

(a) where the information is already in the Board's possession, identifying the information and the circumstances under which it came into the possession of the Board;

(b) where the information is unavailable to the applicant at the time of filing, identifying the date on which the applicant intends to file the required information; or

(c) where the applicant objects to the filing of the information, setting out the objection and the grounds therefor.

(2) Where the Board determines that the grounds for the objection referred to in paragraph (1)(c) are not sufficient, the Board shall so inform the applicant and the applicant shall file the information.

In the Guidelines which were distributed for comment and in this final version of the Guidelines, certain sections were included which would indicate the intent or purpose of asking for the information. Examples of this can be found in Part II, section 3; Part III, section 2 and the introductory words to sections 8 and 9 etc. The Board is of the view that it may be helpful for those preparing an application to know why the Board is asking for the information. This allows the applicant to make such modifications as may be necessary to the filing requirements to provide the Board what is needed.

One party commented on the Early Public Notification provisions asking whether the Board has information available that describes the Board's procedures for reviewing applications which would be available to an applicant to provide to interested persons under Part II, paragraph 4(d). Such information would include the *National Energy Board Act* ("the Act"), the Rules, Information Bulletins etc.

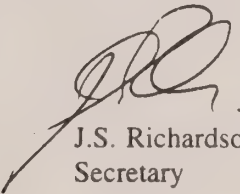
Comments were received with respect to the filing requirements for applications under section 58 of the Act (Parts V and VI of these Guidelines) indicating that the Guidelines should reflect the changes which were included as part of the exemption order issued to streamline section 58 applications. The Board is of the view that the issuance of Board Order XG/XO-100-94 on 6 July 1994 did not affect the section 58 application filing requirements but did require changes to tolls applications (Part X of the Guidelines). If a project is properly the subject matter of the streamlining initiative order the criteria established in the Guidelines would not apply, simply because the project has already been "exempted". An application for a section 58 order granting exemption would not be necessary. Conversely, if the project is not routine or repetitive, then the information contained in the Guidelines would be required to assist the Board in its determination that the project is in the public interest.

Many comments were received on the environmental filing requirements (Part VII of these Guidelines), including comments on wording taken from the *Canadian Environmental Assessment Act* ("CEAA"). Where appropriate, the Board has chosen to use the wording from the CEAA with only such modifications as necessary for context. Specifically, the wording in the definition of "environmental effect" and in paragraphs 9(2)(a) and (b) of Part VII is from the CEAA.

Part VIII was not included in the Guidelines sent for comment. This indicates the information required to be filed with a notice pursuant to section 34 of the Act. These provisions were part of the 1987 Draft Rules, but are not properly the subject of regulations. However, it is open to the Board to issue guidelines on this subject and therefore the new Part has been drafted.

Section 1 of Part X states that unless the Board otherwise orders, an application for an order fixing tolls or tariffs shall contain the information required by that Part. One party suggested that the Guidelines should make specific reference to the Board Orders establishing toll adjustment procedures for liquid pipelines and to the nature of information which must be filed in cases of negotiated settlements. The toll orders referred to<sup>2</sup> and the Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs, issued 23 August 1994 are examples of directions to be considered within the phrase "unless the Board otherwise directs" in section 1.

These Guidelines include the Memorandum of Guidance on Quarterly Surveillance Reports as Part XI. The letter which accompanied and explained that memorandum is attached to this letter.



J.S. Richardson  
Secretary

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<sup>2</sup> TO-7-90 issued to Interprovincial Pipe Line; TO-9-90 issued to TransNorthern Pipelines Inc.; and TO-3-92 issued to Trans Mountain Pipeline Company Ltd.







File No.: 4750-A000-10

16 February 1994

To: Parties Named in the Attached Distribution List

Re: **Review of the Surveillance Reports filed  
pursuant to the Toll Information Regulations**

The Board has considered the comments received from interested parties on the Board's proposal to modify the content and format of surveillance reports filed pursuant to the *Toll Information Regulations*. The Board has decided to issue the attached Memorandum of Guidance, providing guidelines for the preparation of surveillance reports to be filed pursuant to the *Toll Information Regulations*. In adopting these guidelines, the Board took into account parties' comments and revised certain elements of its original proposal as detailed below:

1. Format of Surveillance Reports

The Board continues to believe that the goals of standardization and simplification should be pursued. While some parties argued for the retention of certain information for certain pipeline companies, the Board is of the view that, where possible, all ten Group I companies should be required to file their quarterly information in the same standardized format. This will make it easier to analyze and interpret the data. Concerning the specific requests to retain information pertaining to Rate Base Additions and Capital Cost Overruns, the Board is of the view that this information is too detailed for surveillance purposes. This type of information could be obtained and examined in a Part IV hearing through the information request process. However, the Board has decided to retain the requirement to file information on Intercompany Transactions for TransCanada and Westcoast, but has increased the threshold to \$100,000 in an effort to reduce the reporting requirement.

The Board believes that a schedule showing the breakdown of average rate base would be useful for inclusion in the surveillance report (see new Schedule 2). The Board also believes that ANG's suggestion that the NEB account numbers be shown alongside each reporting item will help facilitate the reporting and interpretation of the quarterly data.

Accordingly, all Group I pipeline companies are to file their quarterly surveillance reports in the standardized format illustrated in Attachment 1 to the attached Memorandum of Guidance. In the case of Foothills, the information should be reported separately for each zone.

With respect to TransCanada's recommendation that pipeline companies file volume-adjusted figures, the Board will allow this to continue for TransCanada on an interim basis, pending further review by the Board.

Concerning IPL's two proposals to streamline its quarterly reporting requirements, the Board will not implement the first proposal to eliminate the schedule on Employee Allocation but will implement the second proposal to eliminate the monthly surveillance report in the month when a quarterly report is issued. An Amending Order is concurrently being issued to IPL to implement this proposal. The Board will treat any similar requests for relief on a case-by-case basis.

IPL requested clarification on what the Board proposed to delete from the IPL(NW) reports. All schedules that do not fit the standardized format found in Attachment 1 are no longer required. This includes the six items contained in Attachment 3 to the Board's discussion paper, which are provided in IPL(NW)'s year-end reports.

## 2. Filing Deadlines

For the first three quarters of each year, the Board has decided that the Group I pipeline companies are to continue filing their surveillance reports no later than 45 days after the quarter. For the year-end report, the pipeline companies are to file their reports no later than 60 days after the quarter. In response to TQM's request for clarification, there is no requirement for the pipeline companies to serve their surveillance reports on all interested parties systematically. Interested parties who wish to receive copies of a particular pipeline company's reports should request service from that company.

The Board has also decided to suspend the requirement to file surveillance reports when the tolls of a pipeline company are interim because, without approved amounts in place to compare actual results to, the surveillance report is not useful and it places an unnecessary filing burden on the pipeline company.

## 3. Threshold for Explaining Variances

The Board agrees that a minimum dollar limit should be established so that the pipeline companies will not be required to explain variances that, although they are above a percentage threshold, are immaterial on an absolute dollar basis. On the other hand, there may be instances where variances are less than the percentage threshold but are large in absolute terms. The Board is of the view that these variances should also be explained. Therefore, the Board has decided that all variances above a minimum dollar limit, irrespective of the percentage variance, should be explained in each company's surveillance report.

Considering the differences in sizes of the Group I pipeline companies, it is not possible to select one minimum dollar limit that would be appropriate for all companies. Therefore, based upon the relative sizes of the companies, the Board has selected the following dollar limit thresholds:

TransCanada	\$1,000,000
Westcoast and IPL	\$500,000
Foothills and TMPL	\$200,000
Cochin, IPL(NW), TNPI, ANG and TQM	\$100,000

The requirement to explain variances greater than the above dollar limits applies to Schedules 1, 2 and 4. For Schedules 3 and 5, variances greater than 10 percent are to be explained.

#### 4. Performance Measures

The Board is of the view that all ten performance measures proposed in the Board's discussion paper dated 4 October 1993 should be retained. The Board notes that the objections largely relate to the way in which the data might be used. As stated in the discussion paper, the principal benefit of having information on performance measures filed regularly is that the Board and interested parties would be able to compare the results for each pipeline over time. Also, the Board recognizes the need for care in interpreting such data.

With respect to the second and third performance measures, the Board has decided that total Operating Expenses is to be provided. However, the pipeline companies may wish to provide a breakdown of Operating Expenses into those expenses over which they consider that they have little influence during the reporting period and those expenses over which management has discretion during the reporting period.

Concerning the additional performance indicators suggested by various parties, the Board has decided not to add them to the list of performance measures at this time.

The Board agrees with Westcoast that its performance measures would be more appropriately reported separately for zones 3 and 4 versus zones 1 and 2.

With respect to the publishing of the performance measure data, the Board believes that this step would increase the transparency of pipeline operations by allowing the Board and all interested parties to observe the results for each pipeline over time. The Board may publish these data from time to time.

#### 5. Time-series Data


In the year-end report, five years of time-series data, in nominal dollars, are to be filed on the performance measures identified above and on the actual and approved rates of return on common equity and the actual and approved rates of return on rate base.

6. Electronic Filing

The Board has decided not to proceed with the filing of surveillance reports via modem at this time. In the future, when the Board's Electronic Regulatory Filing initiative is fully operational and the volume of information to be filed is increased, this option may become more appropriate. Until that happens, the Board requires that all pipeline companies file an electronic version of their reports on diskette, together with the usual number of paper copies.

Yours truly,



 J.S. Richardson  
Secretary



National Energy Board



Office national de l'énergie

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MT 76  
- N 53

File No. 7500-3

24 February 1995

To: **ALL INTERESTED PERSONS**

Re: **REVISED PART VI REGULATIONS AND EXPORT AND IMPORT REPORTING REGULATIONS**

On 10 August 1990, the Board issued draft amendments to the Part VI Regulations and draft Export and Import Reporting Regulations for comment. The Board took into consideration the comments received from interested persons and has made further changes to both sets of regulations as a result of new circumstances and policies.

On 2 April 1993, the Board sent new drafts of the *National Energy Board Part VI Regulations* ("Part VI Regulations") and *Export and Import Reporting Regulations* ("Reporting Regulations") to the Department of Justice (PCO(J)) for their review. The Board has now received blue-stamped copies of the regulations from Justice.

With Justice's approval, the regulations can now be prepublished in the *Canada Gazette*, Part I for a 30-day comment period. Concurrent with this publication, the Board has decided to send the draft regulations to persons on the mailing lists for Oil and Gas matters and Electrical matters.

The first document included is an order which revokes certain sections of the current Part VI Regulations. Because these regulations include provisions relating to electricity, and because new Electricity Regulations have not been finalized, the Part VI Regulations cannot be revoked in their entirety. Specific sections relating to electricity must be retained until new regulations relating to that subject are in place. This order accomplishes that end: revoking the gas and oil provisions and the reporting provisions while retaining the regulations dealing with electricity.

The remaining two documents are the draft *National Energy Board Part VI Regulations, 1995* and *Export and Import Reporting Regulations*. For the most part, these regulations remain substantively as the regulations are now with changes discussed in policy documents.

One section that is entirely new is section 20 of the Part VI Regulations, 1995. This section requires notification of changes to gas supply arrangements supporting a licence. While the regulations currently in force have not contained such a provision, the Board has consistently made it known that it wishes to be informed of changes to gas supply. The Board recognizes the regulatory burden this section, as drafted, could impose on licence holders. It is not the Board's intent that every change should be immediately reported to the Board.

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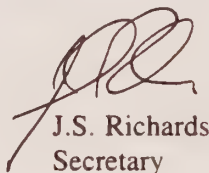
The Board is considering requiring the filing of this information by each licence holder every two years.

The information required in respect of the supply portfolio supporting each licence would be a list of pools and their respective reserves that have been added to the supply portfolio and a list of those that have been deleted since the previous filing. In addition, the licence holder would be required to file, every two years, for supply other than dedicated supply, an aggregate supply demand balance as calculated pursuant to subparagraph 13(d)(i) of the Part VI Regulations, 1995. If, in the initial filing of this information, the licence holder is unable to provide a list of changes in pools, the Board would accept a complete list of pools and reserves supporting the licence.

The filings would be required to be made on the next anniversary date of the commencement of the licence and every two years after that. If the licence holder has several licences relying on other than dedicated supply, the filing would be due on the next anniversary date of any of its licences, and every two years after that. For any licence supported by dedicated supply, changes would have to be filed every two years.

Parties wishing to comment on the proposal with respect to section 20 and also on the proposed changes to the regulations are requested to file 20 copies of their submission by 17 April 1995. Given that the regulations will be republished in the *Canada Gazette* for a 30-day comment period, and given that the Board desires to finalize these regulations as soon as reasonably possible, the Board is not predisposed toward granting an extension to this comment period past that established by the *Canada Gazette*.

Copies of the orders and regulations (in both English and French) may be obtained by telephoning the Board's Regulatory Support Office at (403) 292-4800. For further information about the regulations or the procedure for this review, contact Margery Fowke, Legal Counsel (403) 299-2708, Cliff Brown, Manager, Gas Export Division, Energy Commodities Branch (403) 299-3190, or Paul Bourgeois, Manager, Natural Gas Supply Division, Energy Resources Branch (403) 299-3149.

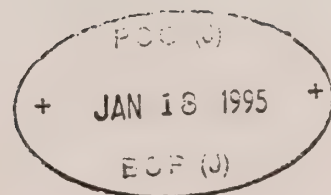


J.S. Richardson  
Secretary

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, on the recommendation of the Minister of Natural Resources, pursuant to subsection 119.01(1)\* of the National Energy Board Act, is pleased hereby to amend the National Energy Board Part VI Regulations, C.R.C., c. 1056, in accordance with the schedule hereto.

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\* S.C. 1990, c. 7, s. 34







SCHEDULE

1. Subsection 2(2) of the *National Energy Board Part VI Regulations* is repealed.

2. The heading before section 3 and sections 3 to 5<sup>1</sup> of the Regulations are repealed.

3. Subsection 6(2)<sup>2</sup> of the Regulations is repealed.

4. The heading before section 7 and sections 7<sup>3</sup> and 8<sup>4</sup> of the Regulations are repealed.

5. The heading before section 10 and sections 10 to 13<sup>5</sup> of the Regulations are replaced by the following:

*Terms and Conditions of Power Export Licences*

6. (1) Subsections 16(1) to (3)<sup>1</sup> of the Regulations are repealed.

(2) Subsection 16(5)<sup>1</sup> of the Regulations is repealed.

7. Subsection 17(1) of the Regulations is replaced by the following:

17. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in connection with any licence for the exportation of power or for any other reason relating to the administration or enforcement of the Act or these Regulations, at any reasonable time,

(a) enter any premises in which power is generated for export or from which it is exported;

(b) inspect any plant, equipment; instruments or devices used for or in connection with the exportation of electric power or electric energy and make such reasonable tests thereon as the member or person determines to be necessary; or

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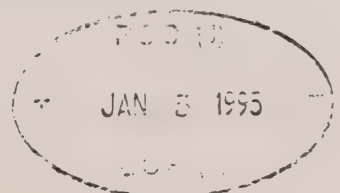
<sup>1</sup> SOR/79-30, 1979 *Canada Gazette* Part II, p. 119

<sup>2</sup> SOR/89-43, 1989 *Canada Gazette* Part II, p. 755

<sup>3</sup> SOR/87-525, 1987 *Canada Gazette* Part II, p. 3546

<sup>4</sup> SOR/90-753, 1990 *Canada Gazette* Part II, p. 4932

<sup>5</sup> SOR/85-390, 1985 *Canada Gazette* Part II, p. 2098



(c) inspect any books, records or accounts used for or in connection with the exportation of electric power or electric energy.

8. The heading before section 18 and sections 18 to 22<sup>6</sup> of the Regulations are replaced by the following:

*Emergency Exports*

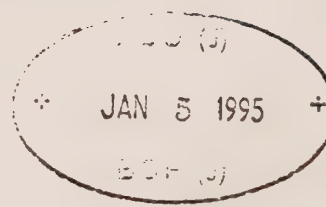
9. The heading before section 24 and sections 24 to 35<sup>7</sup> of the Regulations are repealed.

10. The schedule<sup>5</sup> to the Regulations is repealed.

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<sup>6</sup> SOR/85-1049, 1985 *Canada Gazette* Part II, p. 4608;  
SOR/84-862, 1984 *Canada Gazette* Part II, p. 4107;  
SOR/85-446, 1985 *Canada Gazette* Part II, p. 2397

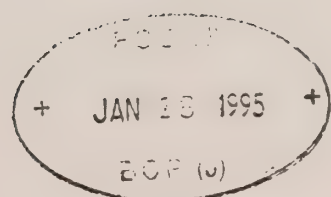
<sup>7</sup> SOR/86-33, 1986 *Canada Gazette* Part II, p. 237;  
SOR/85-390, 1985 *Canada Gazette* Part II, p. 2098;  
SOR/86-1052, 1986 *Canada Gazette* Part II, p. 4643



HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, on the recommendation of the Minister of Natural Resources, pursuant to subsections 119.01(1)\* and 130(2) of the National Energy Board Act, is pleased hereby to make the annexed Regulations respecting the carrying into effect of the provisions of Division I of Part VI of the National Energy Board Act.

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\* S.C. 1990, c. 7, s. 34







REGULATIONS RESPECTING THE CARRYING INTO EFFECT  
OF THE PROVISIONS OF DIVISION I OF PART VI  
OF THE NATIONAL ENERGY BOARD ACT

*Short Title*

1. These Regulations may be cited as the *National Energy Board Part VI Regulations, 1995*.

*Interpretation*

2. In these Regulations,

"Act" means the *National Energy Board Act*; (*Loi*)

"heavy crude oil" means a substance that has a density greater than 875.7 kg/m<sup>3</sup> and is

(a) oil, other than refined petroleum products,

(b) a blend of oils, other than refined petroleum products,  
or

(c) a blend of oils, other than refined petroleum products,  
with refined petroleum products; (*pétrole brut lourd*)

"licence" means a licence for the exportation or importation of oil or gas issued under Part VI of the Act; (*licence*)

"order" means an order authorizing the exportation, importation, exportation for subsequent importation or importation for subsequent exportation of gas or authorizing the exportation of oil that is issued by the Board under these Regulations;  
(*ordonnance*)

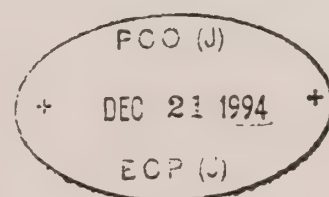
"refined petroleum products" means

(a) oil recovered by the processing of oil sands,

(b) gasoline-type fuels for use in internal combustion engines,

(c) oil for use as a component in the blending of gasoline-type fuels referred to in paragraph (b),

(d) middle distillates, including the products commercially known as kerosene, stove oil, diesel fuel, furnace oil,



diesel oil, gas oil, distillate heating oil, engine distillates and Nos. 1, 2 and 3 fuel oils,

(e) heavy fuel oils, including Nos. 4, 5 and 6 fuel oils, bunker "C" oil, "C" grade oil, residual fuel oil, heavy bunker oil, intermediate and thin bunker fuels and any blend of heavy fuel oils, and

(f) partially processed oil, whether commingled with crude oil or equivalent hydrocarbons or not. (*produits pétroliers raffinés*)

## PART I

### GENERAL

#### *Procedures for Applying For and Issuing Licences and Orders*

3. In addition to the requirements of these Regulations, Part I of the *National Energy Board Rules of Practice and Procedure, 1995* applies in respect of the procedures to be followed in applying for and issuing a licence or an order.

#### *Approval of Licences*

4. The approval of the Governor in Council is required prior to the issuance of a licence for

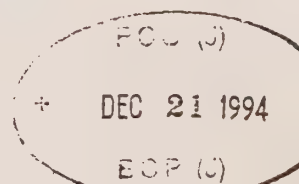
- (a) the exportation of gas;
- (b) the importation of gas;
- (c) the exportation of heavy crude oil; or
- (d) the exportation of oil other than heavy crude oil.

#### *Conditions of Licences or Orders*

5. Every licence is subject to the condition that the holder of the licence must comply with all relevant environmental laws and regulations.

6. Every order is subject to the condition that the holder of the order must comply with

- (a) all relevant environmental laws and regulations;



(b) the provisions of the Act and the regulations in force at the date of the issuing of the order and as subsequently enacted, made or amended; and

(c) every order made under the authority of the Act.

#### *Suspension and Revocation of Orders*

7. (1) Subject to subsection (2), the Board may

(a) suspend an order if any term or condition of the order has not been complied with or has been contravened; or

(b) revoke an order if the holder of the order refuses to comply with any term or condition of the order, or does not comply with any conditions imposed for the lifting of a suspension.

(2) Before suspending or revoking an order, the Board shall send a notice to the holder of the order setting out the term or condition of the order that it is alleged the holder has not complied with, has contravened or has refused to comply with, and shall afford the person an opportunity to be heard.

#### *Inspections*

8. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in order to carry out an inspection in connection with the exportation or importation of oil or gas, at any reasonable time

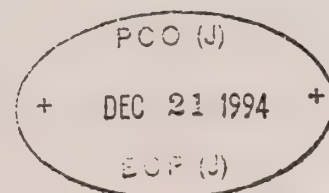
(a) enter any premises in which oil or gas is produced or recovered for export from Canada, is exported from Canada or is imported into Canada;

(b) inspect any instruments, devices, plant, equipment, books, records or accounts or any other thing used for or in connection with the exportation or importation of oil or gas; and

(c) conduct any tests that are necessary in order to carry out the inspection.

(2) A person authorized by the Board to exercise the powers referred to in subsection (1) shall produce the authorization, when requested to do so during the exercise of those powers.

(3) Every person who is the operator of or in charge of any premises or any thing referred to in subsection (1) shall permit



a member of the Board or a person authorized by the Board to exercise the powers referred to in that subsection and shall assist the member or person in exercising those powers.

#### *Units of Measurement*

9. (1) For the purposes of these Regulations, all gas shall be measured in units of measurement that meet the requirements of the *Electricity and Gas Inspection Act*, and

(a) in the case of volume measurement, shall be expressed as the number of cubic metres the gas would occupy at standard conditions, namely, at a temperature of 15°C and at an absolute pressure of 101.325 kPa; and

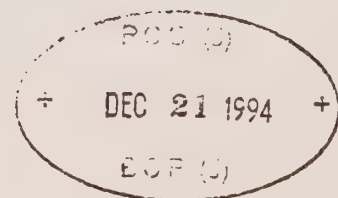
(b) in the case of thermal measurement, shall be computed as the number of joules on a dry basis, where dry gas has a moisture content of less than 110 mg/m<sup>3</sup>.

(2) Where volume is measured under conditions of temperature and pressure other than the standard conditions described in paragraph (1) (a), the volume shall be converted to the equivalent under the standard conditions, in accordance with the Ideal Gas Laws, and shall be corrected for deviations from the Ideal Gas Laws in accordance with subsection (3), where the amount of the deviation exceeds one per cent.

(3) Correction for deviation from the Ideal Gas Laws shall be based on the tables published in American Gas Association (AGA) Report No. 3, *Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids*, as amended from time to time.

(4) Notwithstanding subsections (1) to (3), propane, butanes and ethane may be measured in liquid form, in which case the volume measurement shall be computed in cubic metres.

10. For the purposes of these Regulations, the units of measurement of liquids, other than liquids determined by the Board to be cryogenic liquids, shall be computed at a temperature of 15°C.





PART II

GAS

DIVISION I

GAS OTHER THAN PROPANE, BUTANES AND ETHANE

*Application*

11. This Division applies to gas other than propane, butanes and ethane.

*Exemption*

12. Ethylene and propylene are exempt from the operation of Part VI of the Act.

*Information to be Furnished by Applicants for  
Licences for Exportation*

13. An applicant for a licence for the exportation of gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

(a) the terms that the applicant is requesting for the licence, including

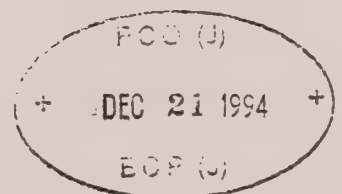
(i) the duration of the licence,

(ii) the maximum daily, annual and term quantities of gas proposed to be exported,

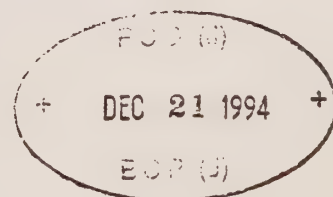
(iii) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions, and

(iv) the points of exportation of the gas from Canada;

(b) information respecting the applicant's gas supply supporting the proposed exportation, whether contractually dedicated or undedicated, or the total corporate gas supply, including



- (i) a summary of the quantities of gas under contract to or owned by the applicant, including daily and annual volumes, reserves and the termination date of every such contract,
  - (ii) a copy of each pro forma contract for each type of gas purchase contract,
  - (iii) the name and location of each pool, field or area that contributes to the gas supply of the applicant, and details of the applicant's contracted or working interest therein,
  - (iv) an estimate of the reserves of gas in each pool, field or area that contribute to the gas supply of the applicant,
  - (v) supporting data for each estimate referred to in subparagraph (iv),
  - (vi) basic deliverability data for each pool, field or area that contributes to the gas supply of the applicant,
  - (vii) a table showing total productive capacity, constrained only by existing and anticipated surface facilities, and
  - (viii) a table showing the ways in which the applicant plans to produce, from each pool, field or area that contributes to the gas supply of the applicant, the quantities of gas necessary to meet the applicant's requirements for the duration of the licence;
- (c) information respecting the applicant's gas market, including
- (i) details of the applicant's gas export sale, including
    - (A) a copy of every gas export sales contract for the proposed exportation,
    - (B) a detailed summary of the terms and conditions of every such contract, including the details of the matters referred to in Schedule I, substantially in the form set out therein,
    - (C) the name of a person to whom questions respecting the details of every such contract may be directed, and
    - (D) a summary of every contract for the sale of gas in the domestic and export markets that may draw from the same gas supply as the proposed exportation, including the daily and annual quantities under, and the termination date of, every such contract, and



(ii) a description of the export market to be served by the proposed exportation;

(d) where the gas proposed to be exported is from a gas supply other than a contractually dedicated pool, field or area, the total corporate gas supply and demand balance, on both an aggregate and an annual basis for the duration of the proposed exportation, which shall consist of

(i) in the case of the aggregate total corporate gas supply and demand balance

(A) supply, broken down as

(I) the reserves specified in the application,

(II) any reserves contractually dedicated to other markets, and

(III) any undedicated reserves available for spot sales, short-term sales or other requirements, and

(B) demand, broken down as

(I) market requirements for the reserves specified in the application,

(II) market requirements for other dedicated reserves, and

(III) other requirements contracted at the time of the application, such as fuel and long- and short-term commitments not supported by dedicated reserves, and

(ii) in the case of the annual total corporate gas supply and demand balance

(A) productive capacity forecasts for

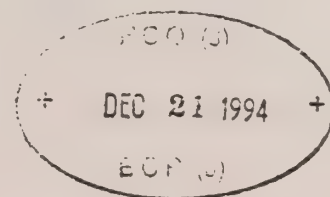
(I) the reserves specified in the application,

(II) any reserves contractually dedicated to other markets, and

(III) any undedicated reserves available for spot sales, short-term sales or other requirements, and

(B) forecasts of

(I) market requirements for the reserves specified in the application,



(II) market requirements for other dedicated reserves,  
and

(III) other requirements contracted at the time of the  
application, such as fuel and long- and short-term  
commitments not supported by dedicated reserves;

(e) details of the transportation arrangements pertaining to  
the proposed exportation, including

(i) the details and status of all contractual arrangements  
for the movement of the gas in and outside Canada,

(ii) a copy of every transportation contract for the movement  
of the gas in Canada, and

(iii) a description of the gathering, storage and  
transmission facilities and any new facilities, in and  
outside Canada, required to move the gas to market;

(f) information respecting the potential environmental effects  
of the proposed exportation and any social effects that would  
be directly related to those environmental effects;

(g) an assessment of the impact of the proposed exportation on  
Canadian energy and natural gas markets to determine whether  
Canadians are likely to have difficulty in meeting their energy  
requirements at fair market prices, based on analysis done by  
or for the applicant or on analysis published by the Board;

(h) a copy of, or details of the status of, each approval or  
authorization of a federal, provincial or state government  
pertaining to

(i) the removal of gas from a province,

(ii) the importation of gas into the country of destination,

(iii) transportation services,

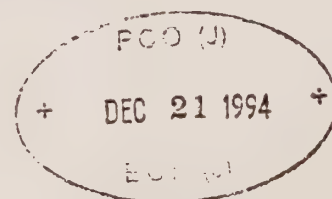
(iv) tariffs and tolls,

(v) facilities,

(vi) environmental reviews, and

(vii) contractual arrangements necessary for the exportation  
of gas; and

(i) a status sheet summarizing the contractual arrangements and  
regulatory approvals and authorizations, substantially in the  
form set out in Schedule II.





*Information to be Furnished by Applicants  
for Licences for Importation*

14. An applicant for a licence for the importation of gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

(a) the terms that the applicant is requesting for the licence, including

(i) the duration of the licence,

(ii) the maximum daily, annual and term quantities of gas proposed to be imported,

(iii) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions, and

(iv) the points of importation of the gas into Canada;

(b) information respecting the applicant's gas supply supporting the proposed importation, including

(i) a summary of the quantities of gas under every gas purchase contract, including daily and annual volumes, reserves and the termination date of every such contract,

(ii) a copy of each pro forma contract for each type of gas purchase contract, and

(iii) evidence to demonstrate the availability of the gas supply;

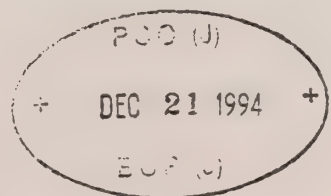
(c) information respecting the applicant's gas market, including

(i) details of the applicant's gas import purchase, including

(A) a copy of every gas import purchase contract for the proposed importation,

(B) a detailed summary of the terms and conditions of every such contract, and

(C) a summary of every contract for the purchase of gas in the domestic and export markets that the applicant's gas markets may draw from, including the daily and annual quantities under, and the termination date of, every such contract, and

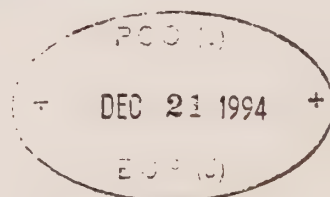


- (ii) a description of the market to be served by the proposed importation;
- (d) details of the transportation arrangements pertaining to the proposed importation, including
  - (i) the details and status of all contractual arrangements for the movement of the gas in and outside Canada,
  - (ii) a copy of every transportation contract for the movement of the gas in Canada, and
  - (iii) a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the gas to market;
- (e) information respecting the potential environmental effects of the proposed importation and any social effects that would be directly related to those environmental effects; and
- (f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to
  - (i) the removal of gas from the country of production;
  - (ii) the importation of gas into a province,
  - (iii) transportation services,
  - (iv) tariffs and tolls,
  - (v) facilities,
  - (vi) environmental reviews, and
  - (vii) contractual arrangements necessary for the importation of gas.

*Terms and Conditions of Licences for  
Exportation and Importation*

15. The following terms and conditions may be included in any licence for the exportation or importation of gas:

- (a) the duration of the licence;
- (b) the period within which the exportation or importation of the gas must commence in order for the licence to remain in effect;



- (c) the term quantities of gas that may be exported or imported;
- (d) the maximum quantities of gas that may be exported or imported, for any daily, monthly, annual or other appropriate period;
- (e) if applicable, any tolerance levels that are necessary to accommodate temporary operating conditions; and
- (f) the points of exportation of the gas from Canada or of importation of the gas into Canada.

*Orders for Exportation or Importation*

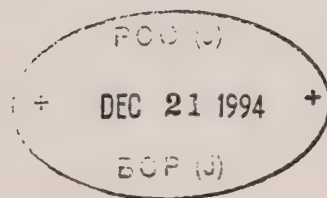
16. Where the Board determines that an application for an order for the importation or exportation of gas contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person

- (a) to export gas
  - (i) for a period not exceeding two years, or
  - (ii) for a period exceeding two years but not exceeding 20 years, in quantities of not more than 30,000 m<sup>3</sup> per day;
- (b) to import gas
  - (i) for a period not exceeding two years, or
  - (ii) for a period exceeding two years but not exceeding 20 years, in quantities of not more than 30,000 m<sup>3</sup> per day; or
- (c) to export gas for subsequent import or to import gas for subsequent export for a period not exceeding 25 years.

*Terms and Conditions of Orders for  
Exportation or Importation*

17. The following terms and conditions may be included in any order issued under section 16:

- (a) the duration of the order;
- (b) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions;



(c) the requirement that the applicant must file with the Board, within a specified period, evidence of each approval or authorization of a federal, provincial or state government pertaining to

(i) the removal of gas from a province or the country of production;

(ii) the importation of gas into the country of destination or into a province,

(iii) transportation services,

(iv) tariffs and tolls,

(v) facilities,

(vi) environmental reviews, and

(vii) contractual arrangements necessary for the exportation or importation of gas;

(d) where the order authorizes the exportation of gas,

(i) the maximum daily, monthly, annual and term quantities of gas that may be exported,

(ii) the points of exportation of the gas from Canada,

(iii) the period within which the exportation of gas must commence in order for the order to remain in effect, and

(iv) the exportation of gas on a firm or interruptible basis;

(e) where the order authorizes the importation of gas,

(i) the maximum daily, monthly, annual and term quantities of gas that may be imported,

(ii) the points of importation of the gas into Canada,

(iii) the period within which the importation of gas must commence in order for the order to remain in effect, and

(iv) the importation of gas on a firm or interruptible basis;

(f) where the order authorizes the exportation of gas for subsequent importation,

(i) the maximum daily, monthly, annual and term quantities of gas that may be exported and subsequently imported,

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(ii) the points of exportation and subsequent importation of gas;

(iii) the period within which the exportation and subsequent importation of gas must commence in order for the order to remain in effect,

(iv) the exportation and subsequent importation of gas on a firm or interruptible basis,

(v) the balancing of quantities to be exported and subsequently imported on a thermally equivalent basis, and

(vi) the injection, storage and withdrawal of gas from storage facilities; and

(g) where the order authorizes the importation of gas for subsequent exportation,

(i) the maximum daily, monthly, annual and term quantities of gas that may be imported and subsequently exported,

(ii) the points of importation and subsequent exportation of gas;

(iii) the period within which the importation and subsequent exportation of gas must commence in order for the order to remain in effect,

(iv) the importation and subsequent exportation of gas on a firm or interruptible basis,

(v) the balancing of quantities to be imported and subsequently exported on a thermally equivalent basis, and

(vi) the injection, storage and withdrawal of gas from storage facilities.

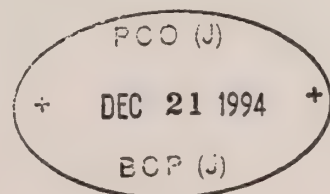
*Amendments to Gas Export Sales Contracts  
and Gas Import Purchase Contracts*

18. (1) In this section,

"gas export sales contract" means a contract, other than a third party contract, for the sale of gas between

(a) the holder of a licence and the importer,

(b) the holder of a licence and the vendor, where the holder or an affiliate or subsidiary of the holder is also the importer, or



(c) the holder of a licence and the importer and between the holder and the vendor, where the holder is an affiliate or subsidiary of the importer and of the vendor; (*contrat de vente de gaz à l'exportation*)

"holder of a licence" means the person who holds a licence for the exportation of gas; (*titulaire d'une licence*)

"importer" means the importer of gas in the country of destination of the gas; (*importateur*)

"third party contract" means a contract for the sale of gas contracted under a gas export sales contract to a third party by the holder of a licence or the importer of the gas, where

(a) the sale to the third party is for a term of less than two years,

(b) the importer is physically unable to take the gas for its market, and

(c) the gas export sales contract contains provisions allowing for the sale of the gas to a third party; (*contrat avec un tiers*)

"vendor" means the person from whom gas is purchased. (*vendeur*)

(2) Unless otherwise authorized by the Board, the holder of a licence shall, within 30 days after execution, file with the Board a copy of every gas export sales contract pertaining to the exportation of gas authorized by the licence and of every amendment, agreement or change pertaining thereto.

(3) The holder of a licence shall include with the copy filed pursuant to subsection (2) a detailed summary of every gas export sales contract and of every amendment, agreement or change pertaining thereto.

(4) The holder of a licence shall not export or cause or permit the exportation of gas under the licence, pursuant to or in accordance with any gas export sales contract, or any amendment, agreement or change pertaining thereto, unless that contract, amendment, agreement or change has been approved by the Board in accordance with subsection (5).

(5) The Board may approve a contract, amendment, agreement or change where the Board determines that gas will continue to be exported under the licence.

(6) On request of the Board, the holder of a licence shall file with the Board, within 30 days after execution, a copy of every

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contract, other than a gas export sales contract, pertaining to the exportation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(7) The holder of a licence shall, within 30 days after execution, file with the Board a copy of every third party contract pertaining to the exportation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

19. (1) In this section,

"exporter" means the exporter of gas in the country of production of the gas; (*exportateur*)

"gas import purchase contract" means a contract, other than a third party contract, for the purchase of gas between

(a) the holder of a licence and the exporter, or

(b) the holder of a licence and the resale customer in Canada, where the holder or an affiliate or subsidiary of the holder is also the exporter; (*contrat d'achat de gaz d'importation*)

"holder of a licence" means the person who holds a licence for the importation of gas; (*titulaire d'une licence*)

"third party contract" means a contract for the sale of gas contracted under a gas import purchase contract to a third party by the holder of the licence or by the exporter of the gas, where

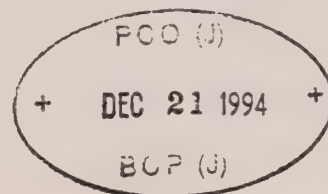
(a) the sale to the third party is for a term of less than two years,

(b) the holder of the licence is physically unable to take the gas for its market, and

(c) the gas import purchase contract contains provisions allowing for the sale of the gas to a third party. (*contrat avec un tiers*)

(2) Unless otherwise authorized by the Board, the holder of a licence shall, within 30 days after execution, file with the Board a copy of every gas import purchase contract pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(3) The holder of a licence shall include with the copy filed pursuant to subsection (2), a detailed summary of every gas





import purchase contract and of every amendment, agreement or change pertaining thereto.

(4) The holder of a licence shall not import or cause or permit the importation of gas under the licence, pursuant to or in accordance with any gas import purchase contract, or any amendment, agreement or change pertaining thereto, unless that contract, amendment, agreement or change has been approved by the Board in accordance with subsection (5).

(5) The Board may approve a contract, amendment, agreement or change where the Board determines that gas will continue to be imported under the licence.

(6) On request of the Board, the holder of a licence shall file with the Board, within 30 days after execution, a copy of every contract, other than a gas import purchase contract, pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(7) The holder of a licence shall, within 30 days after execution, file with the Board a copy of every third party contract pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

#### *Changes to Gas Supply Arrangements*

20. (1) Unless otherwise authorized by the Board, where the supply arrangements supporting a licence for the exportation of gas change, the holder of the licence shall notify the Board of the new gas supply arrangements.

(2) Where the Board receives a notification referred to in subsection (1) and determines that further information is required or that further time is needed to examine the new arrangements, the Board may order the holder of the licence

(a) not to export gas under the licence, pursuant to the new arrangements until the Board approves the exportation of gas pursuant to those arrangements; and

(b) to furnish to the Board all the information that is necessary for the Board to examine the new arrangements.

(3) The holder of a licence referred to in subsection (1) may export gas pursuant to the new arrangements except where the holder is notified in accordance with paragraph (2)(a) that the holder may not export the gas until the Board has granted approval to do so.

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(4) The Board may approve the exportation of gas pursuant to the new gas supply arrangements where the Board determines that there is an adequate supply of gas to meet the requirements of the licence.

## DIVISION II

### PROPANE, BUTANES AND ETHANE

#### *Exemption*

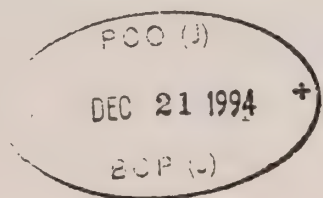
21. The following transactions are exempt from the operation of Part VI of the Act:

- (a) the importation of any propane, butanes or ethane; and
- (b) the exportation of any propane, butanes or ethane, where
  - (i) the exportation is for subsequent import, or
  - (ii) the propane, butanes or ethane have previously been imported into Canada.

#### *Information to be Furnished by Applicants for Licences for Exportation*

22. An applicant for a licence for the exportation of propane, butanes or ethane shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

- (a) the terms that the applicant is requesting for the licence, including
  - (i) the duration of the licence,
  - (ii) the maximum daily, monthly, annual and term quantities of propane, butanes or ethane proposed to be exported and the average heating values of those quantities, and
  - (iii) the points of exportation of the propane, butanes or ethane from Canada;
- (b) information respecting the applicant's propane, butanes or ethane supply supporting the proposed exportation, including



- (i) a summary of the quantities of propane, butanes or ethane under contract and the average heating values of those quantities,
  - (ii) a copy of every supply contract supporting the proposed exportation,
  - (iii) the name and location of each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant, details of the applicant's contracted or working interest therein and the name and location of the plant where liquids are being produced,
  - (iv) an estimate of the gas reserves and the volume of extractable propane, butanes or ethane in each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant,
  - (v) supporting data for each estimate referred to in subparagraph (iv),
  - (vi) basic gas deliverability data for each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant,
  - (vii) a table showing total productive capacity, constrained only by existing and anticipated surface facilities, and
  - (viii) a table showing the ways in which the applicant plans to produce gas from each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant, in order to obtain quantities of propane, butanes or ethane necessary to meet the applicant's requirements for the duration of the licence;
- (c) information respecting the applicant's propane, butanes or ethane market, including
- (i) details of the applicant's propane, butanes or ethane export sale and a copy of every export sales contract for the proposed exportation, and
  - (ii) a description of the export market to be served by the proposed exportation;
- (d) details of the transportation arrangements pertaining to the proposed exportation, including
- (i) the details and status of all contractual arrangements, if applicable, for the movement of the propane, butanes or ethane in and outside Canada,

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(ii) a copy of every transportation contract, if applicable, for the movement of the propane, butanes or ethane in Canada, and

(iii) a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the propane, butanes or ethane to market;

(e) information respecting the potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects; and

(f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to

(i) the removal of propane, butanes or ethane from a province,

(ii) the importation of propane, butanes or ethane into the country of destination,

(iii) transportation services,

(iv) tariffs and tolls,

(v) facilities,

(vi) environmental reviews, and

(vii) contractual arrangements necessary for the exportation of propane, butanes or ethane.

#### *Terms and Conditions of Licences for Exportation*

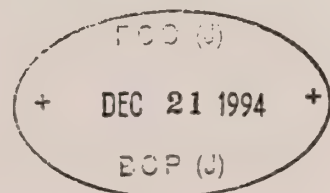
23. The following terms and conditions may be included in any licence for the exportation of propane, butanes or ethane:

(a) the duration of the licence;

(b) the period within which the exportation of propane, butanes or ethane must commence in order for the licence to remain in effect;

(c) the daily, monthly, annual and term quantities of liquids that may be exported; and

(d) the points of exportation of the propane, butanes or ethane from Canada.



*Orders for Exportation*

24. Where the Board determines that an application for an order for the exportation of propane, butanes or ethane contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person

(a) where the application is in respect of propane and butanes, to export propane and butanes for a period not exceeding one year; and

(b) where the application is in respect of ethane, to export ethane for a period not exceeding two years.

*Terms and Conditions of Orders for Exportation*

25. The following terms and conditions may be included in any order issued pursuant to section 24:

(a) the duration of the order;

(b) the requirement that the applicant must file with the Board, within a specified period, evidence of each approval or authorization of a federal, provincial or state government pertaining to

(i) the removal of propane, butanes or ethane from a province,

(ii) the importation of propane, butanes or ethane into the country of destination,

(iii) transportation services,

(iv) tariffs and tolls,

(v) facilities,

(vi) environmental reviews, and

(vii) contractual arrangements necessary for the exportation of propane, butanes or ethane;

(c) the period within which the exportation must commence in order for the order to remain in effect;

(d) the daily, monthly, annual and term quantities of liquids that may be exported; and

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(e) the points of exportation of the propane, butanes or ethane from Canada.

### PART III

#### OIL

##### *Exemption*

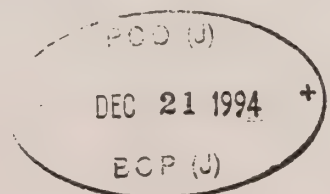
26. The following transactions are exempt from the operation of Part VI of the Act:

- (a) the importation of any oil; and
- (b) the exportation of any oil
  - (i) that is necessary to effect deliveries of oil by pipeline to consignees in accordance with normal pipeline operating practices,
  - (ii) used for drilling operations in the offshore areas over which Canada exercises jurisdiction,
  - (iii) carried by motor vehicles, aircraft, locomotives and ships in their own tanks for their consumption, or
  - (iv) that has previously been imported into Canada, except where the oil is refined petroleum products.

##### *Information to be Furnished by Applicants for Licences for Exportation*

27. Every applicant for a licence for the exportation of oil shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

- (a) the terms that the applicant is requesting for the licence, including
  - (i) the duration of the licence,
  - (ii) the daily, annual and term quantities of oil proposed to be exported, and
  - (iii) the points of exportation of the oil from Canada;



(b) information respecting the applicant's oil supply supporting the proposed exportation, including

- (i) a summary of the quantities of oil under every supply contract,
- (ii) a copy of every oil supply contract,
- (iii) the name and location of each pool, field or area that contributes to the supply of the applicant and the details of the applicant's contracted or working interest therein,
- (iv) an estimate of the oil reserves in each pool, field or area that contributes to the supply of the applicant,
- (v) supporting data for each estimate referred to in subparagraph (iv),
- (vi) basic productive capacity data for each pool, field or area that contributes to the supply of the applicant, and
- (vii) a table showing anticipated annual production for each pool, field or area that contributes to the supply of the applicant, and the total annual production during the licence;

(c) information respecting the applicant's oil market, including

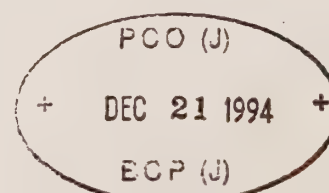
- (i) details of the applicant's oil export sale, including a copy of every oil export sales contract for the proposed exportation, and
- (ii) a description of the export market to be served by the proposed exportation;

(d) details of the transportation arrangements pertaining to the proposed exportation of oil, including a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the oil to market;

(e) information respecting the potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects; and

(f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to

- (i) the importation of oil into the country of destination,



- (ii) transportation services,
- (iii) tariffs and tolls,
- (iv) facilities,
- (v) environmental reviews, and
- (vi) contractual arrangements necessary for the exportation of oil.

#### *Licences for Exportation*

28. (1) Subject to subsection (2), the Board may, after holding a public hearing and obtaining the approval of the Governor in Council under section 4, issue a licence authorizing any person

(a) to export heavy crude oil for a period exceeding two years but not exceeding 25 years; and

(b) to export oil, other than heavy crude oil, for a period exceeding one year but not exceeding 25 years.

(2) The Board may issue a licence for the exportation of refined petroleum products, resulting from an oil processing arrangement of imported oil, for a period exceeding one year but not exceeding 25 years, without holding a public hearing.

(3) For the purposes of subsection (2), "oil processing arrangement of imported oil" means a commercial arrangement whereby oil is imported for processing or refining at a refinery in Canada, and the refined petroleum products obtained or derived therefrom, or from a quantity of other oil determined by the Board to be comparable thereto, are to be exported from Canada.

#### *Terms and Conditions of Licences for Exportation*

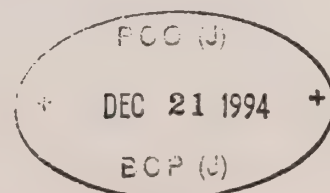
29. Every licence for the exportation of oil may include terms and conditions respecting

(a) the duration of the licence;

(b) the period within which the exportation of the oil must commence in order for the licence to remain in effect;

(c) the total quantity of oil that may be exported; and

(d) the points of exportation of the oil from Canada.



*Orders for Exportation*

30. Where the Board determines that an application for an order for the exportation of oil contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person

(a) to export heavy crude oil for a period not exceeding two years; or

(b) to export oil, other than heavy crude oil, for a period not exceeding one year.

*Terms and Conditions of Orders for Exportation*

31. The following terms and conditions may be included in an order issued pursuant to section 30:

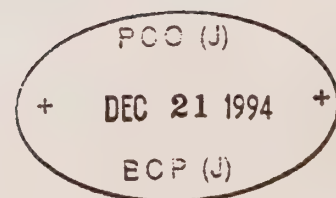
(a) the duration of the order;

(b) the period within which the exportation of the oil must commence in order for the order to remain in effect;

(c) every contract or agreement that the person enters into for the exportation of the oil for a period exceeding one month must contain a clause relieving that person of the obligation to export the oil to the extent that exportations are restricted by the Government of Canada;

(d) the total quantity of oil that may be exported; and

(e) the points of exportation of the oil from Canada.





SCHEDULE I  
(Clause 13(c)(i)(B))

SUMMARY OF CONTRACT TERMS AND CONDITIONS

1. Canadian Seller:

(a) indicate the full corporate name.

2. U.S. Buyer:

(a) indicate the full corporate name.

3. Third-party Resale Agreements:

(a) indicate if the third-party resale agreement mirrors the international export sales contract and vice versa; and

(b) if it does not, include a summary of the third-party resale agreement.

4. Conditions Precedent:

(a) provide any conditions precedent, including the dates by which the conditions must be met.

5. Term:

Indicate

(a) the length of initial contract term;

(b) the commencement date;

(c) the expiration date; and

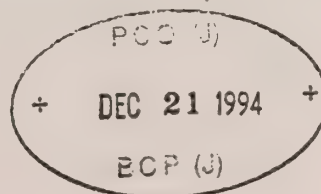
(d) any renewal or termination rights.

6. Delivery point:

Indicate

(a) the point at which the Canadian seller sells to the U.S. buyer; and

(b) the point at which the gas crosses the international boundary, if different from the point referred to in paragraph (a).



## 7. Contract Quantity

Indicate

- (a) in both metric and imperial units,
  - (i) the maximum daily quantity (MDQ),
  - (ii) the daily contract quantity (DCQ),
  - (iii) the monthly contract quantity (MCQ),
  - (iv) the annual contract quantity (ACQ), and
  - (v) the summer and winter quantities, and
- (b) the right to increase or decrease the contract quantity.

## 8. Pricing Provisions:

Provide, using the dollars and units of measurement used in the contract,

- (a) a general description of the pricing provisions (for example, a two-part price consisting of a demand charge and a commodity charge);
- (b) a description of the various components of the demand charge, the payment provisions, the adjustment provisions, and associated renegotiation or arbitration provisions;
- (c) a description of the commodity charge, including the base or reference price, pricing indices, fuel costs, the Gas Inventory Charge (GIC), any reservation or stand-by fees, any provision for multi-tier or incentive prices, and any associated renegotiation or arbitration provisions; and
- (d) other pricing provisions not included in paragraphs (a) to (c).

## 9. Take Provisions:

Indicate

- (a) the seller's obligations, including a description of monetary or volumetric penalties for non-performance, any provision for alternate sales rights, and any associated renegotiation or arbitration provisions; and
- (b) the buyer's obligations, including any provision for minimum daily, monthly, seasonal or annual takes, the *pro-rata*

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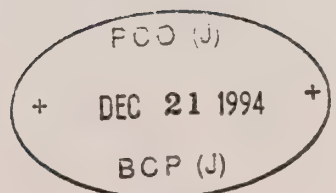
take provisions, the volumetric reduction provisions, the minimum bill provisions, the associated make-up rights, and any associated renegotiation or arbitration provisions.

10. Supply Security:

(a) indicate whether there is a requirement on the part of the seller to provide audited financial statements and regular reports on reserve and deliverability data.

11. *Force Majeure*:

(a) indicate the *force majeure* relief available to the seller and the buyer.



SCHEDULE II

(Paragraph 13(i))

STATUS SHEET FOR CONTRACTUAL ARRANGEMENTS AND  
REGULATORY APPROVALS AND AUTHORIZATIONS

1. Project data

- (a) Exporter:
- (b) Export Points:
- (c) Importer:
- (d) Maximum Daily Quantity:
- (e) Term:

2. All Applicable Transportation Arrangements

(a) Upstream

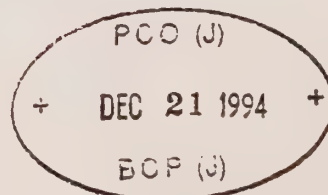
- (i) Transporter:
- (ii) Availability of Capacity:
- (iii) Contractual Arrangement:
- (iv) Term:

(b) Canadian Mainline

- (i) Transporter:
- (ii) Availability of Capacity:
- (iii) Contractual Arrangement:
- (iv) Term:

(c) Downstream

- (i) Immediate Downstream Transporter:
- (ii) Availability of Capacity:
- (iii) Contractual Arrangement:
- (iv) Term:





- (v) Further Downstream Transporter:
- (vi) Availability of Capacity:
- (vii) Contractual Arrangement:
- (viii) Term:

### 3. Sales Arrangements

#### (a) All Applicable Gas Sales Agreements

- (i) Gas Purchaser:
- (ii) Contractual Arrangement:
- (iii) Term:

#### (b) All Applicable Power Sales Agreements

- (i) Power Purchaser:
- (ii) Contractual Arrangement:
- (iii) State Regulatory Approval:

#### (c) All Applicable Thermal Sales Agreements

- (i) Thermal Purchaser:
- (ii) Contractual Arrangement:

### 4. Supply Arrangements

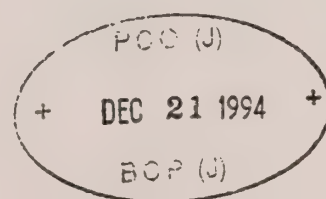
#### (a) All Applicable Gas Supply Agreements

- (i) Producer or Supply Aggregator:
- (ii) Contractual Arrangement:
- (iii) Term:
- (iv) Contracted Volumes:

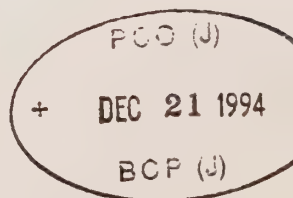
### 5. Regulatory Authorizations

#### (a) Provincial Gas Removal Permit

- (i) Provincial Removal Permit:
- (ii) Date of Application:

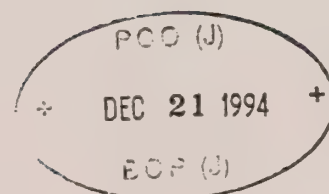


- (iii) Requested Term and Volume of Permit:
- (iv) File Number:
- (v) Date of Authorization:
- (vi) Permit Number:
- (vii) Expiry Date:
- (viii) Term Volume:
- (b) DOE/FE Import Authorization
  - (i) Applicant:
  - (ii) Date of Application:
  - (iii) Requested Term of Order:
  - (iv) Hearing Order Number:
  - (v) Date of Authorization:
  - (vi) Order Number:
  - (vii) Expiry Date:
- (c) FERC Facility and Service Authorization
  - (i) Applicant:
  - (ii) Date of Application:
  - (iii) Docket Number:
  - (iv) Date of Authorization:
  - (v) Order Number:
  - (vi) Expiry Date:
- (d) State PSC Facility and Service Authorization
  - (i) Applicant:
  - (ii) Date of Application:
  - (iii) File Number:
  - (iv) Date of Authorization:



(v) Order Number:

(vi) Expiry Date:



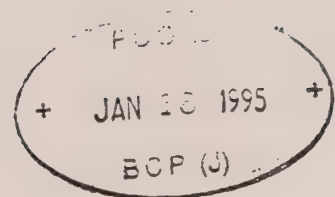




HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, on the recommendation of the Minister of Natural Resources, pursuant to subsection 129(1)\* of the National Energy Board Act, is pleased hereby to approve the annexed Regulations made by the National Energy Board respecting the returns and information to be submitted by persons exporting oil, gas or electricity or importing gas.

---

\* S.C. 1990, c. 7, s. 42





REGULATIONS RESPECTING THE RETURNS AND INFORMATION  
TO BE SUBMITTED BY PERSONS EXPORTING OIL, GAS  
OR ELECTRICITY OR IMPORTING GAS

*Short Title*

1. These Regulations may be cited as the *National Energy Board Export and Import Reporting Regulations*.

*Interpretation*

2. In these Regulations,

"Act" means the *National Energy Board Act*; (Loi)

"border accommodation transfer" means a transfer of power or energy for the purpose of providing electricity to

(a) a person in a foreign country who lacks ready access to services from an electric utility in that country,

(b) an international work, or

(c) a person in a foreign country who has lost service from an electric utility of that country as a result of an emergency; (*transfert en vue d'un service frontalier*)

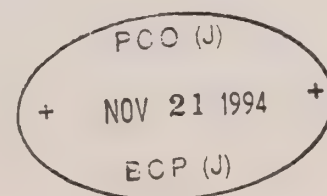
"energy" means the total quantity of energy in the form of electricity transmitted over a period of time, expressed in units of watt hours or multiples or sub-multiples of watt hours; (*énergie*)--

"inter-utility transfer" means a transfer of any of the following classes, namely,

(a) a sale transfer, being a transfer of power or energy under a contract of sale,

(b) an equichange transfer, being an interchange of equal quantities of power or energy within a stated period,

(c) a storage transfer, being a transfer of energy banked for the time being in a form such as water in a reservoir of another electric utility, with the expectation that equivalent energy will be returned at a later time,



(d) an adjustment transfer, being a transfer of power or energy to adjust energy account balances or to compensate for services rendered, or

(e) a carrier transfer, being a transfer of power or energy wheeled from one electric utility, through the circuits of another electric utility that acts as a carrier, for delivery to a third party or to the original utility; (*transfert entre services publics d'électricité*)

"licence" means a licence issued under Part VI of the Act;  
(*licence*)

"order" means an order authorizing the exportation, importation, exportation for subsequent importation or importation for subsequent exportation of gas or authorizing the exportation of oil issued by the Board under the *National Energy Board Part VI Regulations, 1995*; (*ordonnance*)

"permit" means a permit for the exportation of electricity issued under Part VI of the Act; (*permis*)

"power" means the rate of transferring electric energy, expressed in units of watts or multiples or sub-multiples of watts;  
(*puissance*)

"refined petroleum products" means

(a) oil recovered by the processing of oil sands,

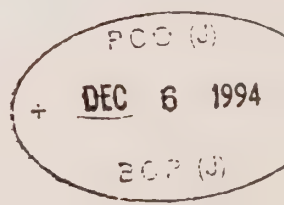
(b) gasoline-type fuels for use in internal combustion engines,

(c) oil for use as a component in the blending of gasoline-type fuels referred to in paragraph (b),

(d) middle distillates, including the products commercially known as kerosene, stove oil, diesel fuel, furnace oil, diesel oil, gas oil, distillate heating oil, engine distillates and Nos. 1, 2, and 3 fuel oils,

(e) heavy fuels oils, including Nos. 4, 5 and 6 fuel oils, bunker "C" oil, "C" grade oil, residual fuel oil, heavy bunker oil, intermediate and thin bunker fuels and any blend of heavy fuel oils, and

(f) partially processed oil, whether commingled with crude oil or equivalent hydrocarbons or not. (*produits pétroliers raffinés*)





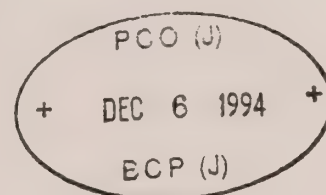
*Keeping Returns*

3. A copy of each return required to be submitted to the Board pursuant to these Regulations shall be kept by the person submitting the return for a period of three years from the month to which the return relates.

*Gas*

4. Subject to sections 5 and 6, every holder of a licence or an order for the exportation, importation, exportation for subsequent importation or importation for subsequent exportation of gas shall submit to the Board, on or before the last day of each month, a return for the previous month that contains, for each licence or order, the following information set out by point of exportation or importation:

- (a) the licence number or order number;
- (b) the total quantity exported or imported, expressed in cubic metres;
- (c) the highest quantity exported or imported in any one day during the month, expressed in cubic metres;
- (d) the average heating value of the gas exported or imported;
- (e) the value or price, at the international border, of all gas exported or imported, expressed in Canadian currency;
- (f) the name of the export customer of the gas exported or the name of the seller of the gas imported;
- (g) the province in which the gas was produced for all gas exported and the country and state in which the gas was produced for all gas imported;
- (h) the transportation costs associated with the gas exported;
- (i) whether the exportation or importation of gas was firm or interruptible;
- (j) the geographical region within a country of destination to which gas was exported or within Canada for gas that was imported; and
- (k) the name and telephone number of the person who prepared the return.



*Propane and Butanes*

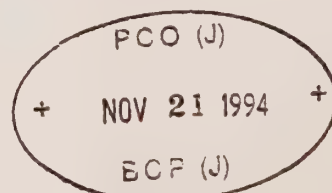
5. Every holder of a licence or an order for the exportation of propane or butanes shall submit to the Board, on or before the last day of each month, a return for the previous month that contains, for each licence and order, the following information:

- (a) the licence number or order number;
- (b) the total quantity exported, expressed in cubic metres;
- (c) the export price of the propane and butanes at the point of loading or injection into a pipeline, expressed in Canadian currency;
- (d) the province where the exportation occurs;
- (e) the country to which the propane or butanes were exported and the destination within the importing country;
- (f) the mode of transport used in the exportation;
- (g) information respecting
  - (i) the opening and closing inventory levels of the propane and butanes,
  - (ii) the supply sources of the propane and butanes,
  - (iii) the final disposition of the propane and butanes, and
  - (iv) inter-provincial transfers of the propane and butanes; and
- (h) the name and telephone number of the person who prepared the return.

*Ethane*

6. Every holder of a licence or an order for the exportation of ethane shall submit to the Board, on or before the last day of each month, a return for the previous month that contains, for each licence and order, the following information:

- (a) the licence number or order number;
- (b) the province where the exportation occurs;
- (c) the total quantity exported, expressed in cubic metres;

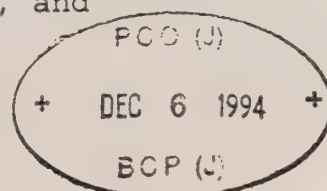


- (d) the total revenue generated by the exportation calculated at the point of loading or injection into a pipeline, expressed in Canadian currency;
- (e) the destination of the exportation of the ethane;
- (f) the mode of transport used in the exportation of the ethane; and
- (g) the name and telephone number of the person who prepared the return.

*Oil*

7. Every holder of a licence or an order for the exportation of oil shall submit to the Board, on or before the last day of each month, a return for the previous month that contains, for each licence and order, the following information:

- (a) the licence number or order number;
- (b) in the case of oil other than refined petroleum products,
  - (i) the crude oil stream exported,
  - (ii) the consignee and destination of the oil within the importing country,
  - (iii) the total quantity exported, expressed in cubic metres,
  - (iv) the mode of transport used in the exportation,
  - (v) the point of sale,
  - (vi) the export price of the oil at the point of sale, expressed in Canadian currency, and
  - (vii) the marine freight cost of the cost, insurance and freight (CIF) sales, expressed in Canadian currency;
- (c) in the case of refined petroleum products,
  - (i) the type of petroleum product exported,
  - (ii) the total quantity exported, expressed in cubic metres,
  - (iii) the export price at the point of loading or injection into a pipeline, expressed in Canadian currency,
  - (iv) the province where the exportation occurs,
  - (v) the mode of transport used in the exportation, and



(vi) the country to which the products were exported and the destination within the importing country; and

(d) the name and telephone number of the person who prepared the return.

#### *Electricity*

8. (1) Subject to subsection (2), every holder of a licence or permit for the exportation of electricity shall submit to the Board, on or before the 15th day of each month, a return for the previous month that contains, for each licence or permit, the following information:

(a) the quantities and dollar value, in Canadian currency, of electricity exported, by customer, by type (firm or interruptible) and by class of inter-utility transfer; and

(b) the name and telephone number of the person who prepared the return.

(2) Where a permit is issued authorizing, as a border accommodation transfer, the exportation of 1 000 kW or less of power to each customer served pursuant to the permit, the returns referred to in subsection (1) shall be submitted to the Board every six months.

#### *Units of Measurement*

9. (1) For the purposes of these Regulations, all gas shall be measured in units of measurement that meet the requirements of the *Electricity and Gas Inspection Act*, and

(a) in the case of volume measurement, shall be expressed as the number of cubic metres the gas would occupy at the standard conditions, namely, at a temperature of 15°C and at an absolute pressure of 101.325 kPa; and

(b) in the case of thermal measurement, shall be computed as the number of joules on a dry basis, where dry gas has a moisture content of less than 110mg/m<sup>3</sup>.

(2) Where volume is measured under conditions of temperature and pressure other than the standard conditions described in paragraph (1)(a), the volume shall be converted to the equivalent under the standard conditions, in accordance with the Ideal Gas Laws, and shall be corrected for deviations from the Ideal Gas Laws in accordance with subsection (3), where the amount of the deviation exceeds one per cent.

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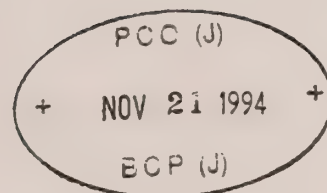


(3) Correction for deviation from the Ideal Gas Laws shall be based on the tables published in American Gas Association (AGA) Report No. 3, *Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids*, as amended from time to time.

(4) Notwithstanding subsections (1) to (3), propane, butanes and ethane may be measured in liquid form, in which case the volume measurement shall be computed in cubic metres.

10. For the purposes of these Regulations, the units of measurement of liquids, other than liquids determined by the Board to be cryogenic liquids, shall be computed at a temperature of 15°C.

11. For the purposes of these Regulations, power and energy shall be measured in units of measurement that meet the requirements of the *Electricity and Gas Inspection Act*.







National Energy Board

Office national de l'énergie

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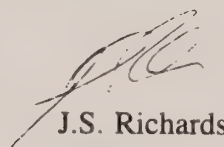
File: 1660-A000-2-93  
28 February 1995

To: Interested Parties

Re: *Canadian Energy Supply and Demand 1993-2010: Errata*

On 15 December 1994, the Board released *Canadian Energy Supply and Demand 1993-2010, Technical Report* and the accompanying volume, *Appendix to Technical Report*. Attached are an *errata* list pertaining to both volumes and the corresponding revised pages.

If interested parties have any questions on this material, inquiries should be directed to the Office of the Secretary quoting Board file: 1660-A000-2-93.

  
J.S. Richardson  
Secretary



Attachments





Attachment

Canadian Energy Supply and Demand 1993-2010

*Errata\**

Technical Report

Page 6-38, Table 6-11. Revised 1991 data.

Page 6-38, Table 6-12. Revised 1991 data for natural gas.

Page 7-32, Column 2, line 5. "165 million" should be replaced by "155 million."

Page 7-32, Figure 7-20. Under Remaining Reserves, "Heavy 165" should be replaced by "Heavy 155."

Appendix to Technical Report

Page 22, Table A4-2 (continued). Entire table revised.

Page 58, Table A4-9. Revised data for 1991, below the line "Total End Use."

\* Revised pages are attached.



## 6.6.3 COMPARISONS WITH OTHER PROJECTIONS

### 6.6.3.1 Organizations Surveyed

The following organizations have recently released projections which form the basis of our comparisons:

- The California Energy Commission (CEC) – 1993 Natural Gas Market Outlook.

- Energy Information Administration (EIA) – Annual Energy Outlook 1994.
- Gas Research Institute (GRI) – Long-term Trends in U.S. Gas Supply and Prices (1993).
- National Petroleum Council (NPC) – The Potential for Natural Gas in the U.S. (1992).
- Natural Resources Canada (NRCan) – Canada's Energy Outlook 1992 to 2020 (1993).

**TABLE 6-11**  
**U.S. Gas Demand By Region**  
Tcf/Yr

	Current Technology				
	1991	1996	2001	2006	2011
California	1.8	2.2	2.4	2.6	2.5
WSC	5.1	5.4	5.4	5.6	5.1
ENC	3.2	3.5	3.5	3.7	3.2
Mid – Atl	1.9	2.2	2.3	2.3	1.9
Other	4.9	5.6	6.2	6.8	6.7
Total	16.9	18.9	19.8	21.0	19.4
	High Technology				
	1991	1996	2001	2006	2011
California	1.8	2.2	2.4	2.6	2.6
WSC	5.1	5.4	5.5	5.7	5.8
ENC	3.2	3.5	3.7	4.0	4.0
Mid – Atl	1.9	2.2	2.4	2.4	2.5
Other	4.9	5.8	6.7	7.4	7.8
Total	16.9	19.1	20.7	22.1	22.7

**TABLE 6-12**  
**U.S. Gas And Oil Demand**  
Tcf/Yr

Current Technology									
	Gas	1991 HFO	LFO	Gas	2001 HFO	LFO	Gas	2011 HFO	LFO
Core	8.6			10.0			10.6		
Noncore	4.8	0.2		4.8	0.9		4.2	1.9	
Electricity	3.5	1.2	0.1	5.0	0.7		4.6	2.3	0.2
Total	16.9	1.4	0.1	19.8	1.6		19.4	4.2	0.2
High Technology									
Core	8.6			10.0			10.6		
Noncore	4.8	0.2		5.4	0.3		5.5	0.5	
Electricity	3.5	1.2	0.1	5.2	0.5		6.7	0.5	
Total	16.9	1.4	0.1	20.7	0.8		22.7	1.0	





## 7.7 SUMMARY OF TOTAL OIL SUPPLY

### 7.7.1 Field Supply – Technology Cases

Estimated total reserves additions of conventional light and heavy crude oil and bitumen over the projection period for the two cases are compared with established reserves and cumulative production at year-end 1992 in Figure 7-20. In the Current Tech case, conventional light crude additions total 559 million cubic metres, which is slightly more than the remaining established reserves of 525 million cubic metres. In the High Tech

case, light crude additions total 681 million cubic metres over the projection period. For conventional heavy crude oil, additions total 343 million cubic metres in the Current Tech case, which is more than double the remaining established reserves of 155 million cubic metres. In the High Tech case, heavy crude additions total 407 million cubic metres over the projection period. Bitumen reserves additions total 500 million cubic metres in the Current Tech case, roughly equal to the remaining established reserves, and 750 million cubic metres in the High Tech case. Projections of reserves

FIGURE 7-19  
Supply of Pentanes Plus

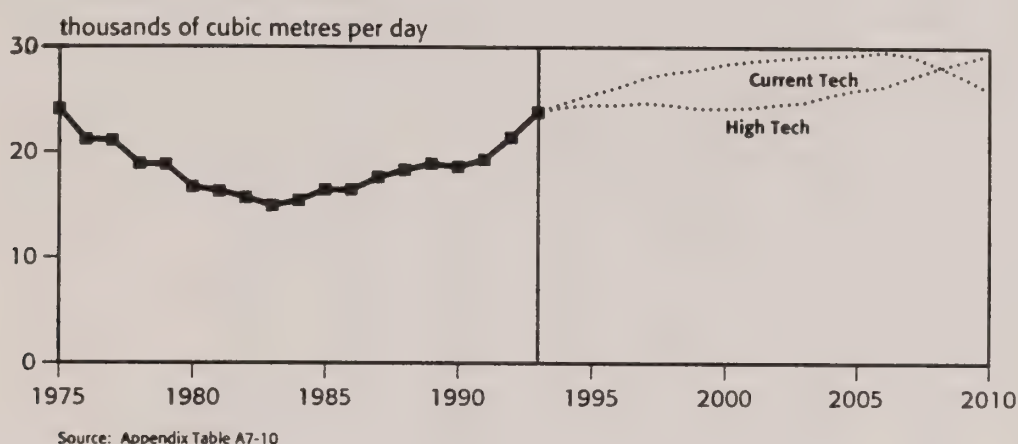


FIGURE 7-20  
Remaining Reserves, Reserves Additions and Cumulative Production  
(millions of cubic metres)

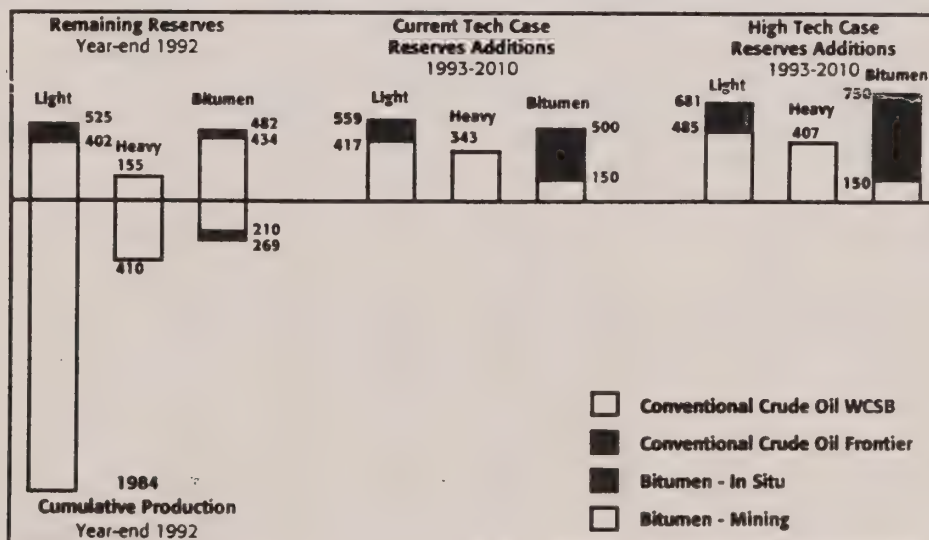




Table A4-2 (Continued)  
End Use Demand by Fuel and Sector - Alberta

Revised

(Petajoules)								
Current Tech Case								
	1991(1)	1992	1993	1994	1995	2000	2005	2010
<b>Residential</b>								
Electricity	27.5	27.3	27.6	27.9	28.4	30.8	34.8	39.0
Oil	18.8	18.9	19.0	19.0	19.0	19.2	19.4	19.6
Natural Gas	129.1	128.9	130.2	131.1	131.0	134.1	137.1	142.0
Propane and Butanes	2.2	3.9	4.0	4.0	4.0	4.1	4.3	4.6
Wood	4.1	4.1	4.0	3.9	3.8	3.3	2.7	2.2
Other	1.0	0.8	0.8	0.8	0.8	0.7	0.6	0.5
<b>Total</b>	<b>182.7</b>	<b>184.0</b>	<b>185.5</b>	<b>186.5</b>	<b>186.9</b>	<b>192.2</b>	<b>199.0</b>	<b>207.8</b>
<b>Commercial</b>								
Electricity	38.8	39.8	40.2	40.6	41.3	44.6	47.6	50.8
Oil	2.7	2.8	2.9	2.9	2.9	3.1	3.2	3.4
Natural Gas	89.3	83.7	84.4	85.0	86.2	89.9	94.1	98.4
Propane and Butanes	2.1	2.2	2.3	2.3	2.3	2.4	2.4	2.5
Other	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>133.2</b>	<b>128.6</b>	<b>129.8</b>	<b>130.7</b>	<b>132.7</b>	<b>140.0</b>	<b>147.3</b>	<b>155.1</b>
<b>Industrial</b>								
Electricity	81.4	85.8	88.1	89.8	94.3	111.1	125.9	138.1
Oil	48.5	47.2	48.4	49.3	51.8	61.3	68.7	74.6
Natural Gas	198.3	188.3	192.7	195.7	204.8	237.9	264.1	285.3
Coal, Coke and Coke Oven Gas	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.0
Steam	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2
Hog Fuel and Pulping Liquor	23.7	25.9	26.6	27.0	28.3	33.2	37.2	40.5
Propane and Butanes	6.4	4.4	4.5	4.6	4.8	5.6	6.3	6.8
Natural Gas for Bitumen	63.0	65.2	63.2	69.0	72.3	108.4	99.0	9.7
Coal for Bitumen	0.0	0.0	0.0	0.0	0.0	0.0	0.0	87.5
Other	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>421.4</b>	<b>417.0</b>	<b>423.7</b>	<b>435.6</b>	<b>456.5</b>	<b>557.7</b>	<b>601.3</b>	<b>642.7</b>
<b>Non-Energy</b>								
Asphalt	21.9	21.5	21.8	26.2	27.6	24.0	24.6	25.3
Lubes and Greases	4.0	4.1	4.1	4.1	4.2	4.4	4.6	4.8
Naphtha	0.7	0.7	0.7	0.7	0.7	0.8	0.8	0.8
Petroleum Coke	5.0	5.1	5.3	5.4	5.5	6.0	6.7	7.4
Natural Gas	123.3	113.9	120.1	125.1	129.6	150.0	167.2	183.9
Oil	11.7	11.7	11.8	12.2	12.4	13.8	15.9	17.9
Propane and Butanes	2.4	13.8	22.4	22.7	31.0	46.2	52.1	59.0
Ethane	107.3	98.4	93.2	105.2	119.0	161.0	187.8	219.0
Other Oil	3.6	3.6	3.6	3.6	3.6	3.6	3.7	3.7
<b>Total</b>	<b>280.0</b>	<b>272.7</b>	<b>282.9</b>	<b>305.1</b>	<b>333.6</b>	<b>409.7</b>	<b>463.4</b>	<b>521.7</b>
<b>Transportation</b>								
Motor Gasoline	145.5	148.8	157.6	154.4	154.0	158.8	175.9	192.3
Diesel Fuel Oil	61.7	59.3	60.8	61.2	61.8	64.6	69.5	74.8
Aviation Turbo - Total	20.8	16.1	21.5	23.0	24.0	27.1	29.1	30.9
Aviation Gasoline	0.4	0.4	0.4	0.4	0.4	0.5	0.5	0.5
Heavy Fuel Oil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other	9.1	8.4	9.3	9.4	9.6	10.2	10.9	11.5
<b>Total</b>	<b>237.5</b>	<b>232.9</b>	<b>249.6</b>	<b>248.5</b>	<b>249.8</b>	<b>261.3</b>	<b>285.9</b>	<b>309.9</b>
<b>Total End Use</b>								
Electricity	147.8	153.1	156.1	158.4	164.2	186.8	208.7	228.4
Oil	345.5	340.2	357.8	362.4	368.0	387.2	422.7	455.9
Natural Gas	604.1	580.0	591.6	607.0	625.0	722.1	763.8	722.2
Coal, Coke and Coke Oven Gas	1.0	0.8	0.8	0.8	0.8	0.7	0.5	87.9
Steam	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2
Wood	4.1	4.1	4.0	3.9	3.8	3.3	2.7	2.2
Hog Fuel and Pulping Liquor	23.7	25.9	26.6	27.0	28.3	33.2	37.2	40.5
Other	128.6	130.9	134.5	146.9	169.3	227.4	261.1	299.9
<b>Total</b>	<b>1254.9</b>	<b>1235.1</b>	<b>1271.5</b>	<b>1308.5</b>	<b>1359.5</b>	<b>1560.9</b>	<b>1697.0</b>	<b>1837.2</b>

(1) 1991 is last year of actual data.





Table A4-9

Revised

Total Energy Demand - End Use by Sector - Primary Demand by Fuel  
Canada

(Petajoules)		Alternative Macro Case								
		1990	1991(1)	1992	1993	1994	1995	2000	2005	2010
Sectoral Demand										
Residential		1449.9	1417.7	1453.7	1461.8	1468.9	1480.4	1529.6	1584.9	1649.8
Commercial		892.8	903.3	922.4	932.7	943.3	952.9	1012.3	1066.7	1125.9
Industrial		2540.6	2506.0	2458.8	2561.0	2691.2	2856.7	3435.6	3951.9	4481.0
Transportation	- Road	1513.4	1465.3	1488.6	1532.1	1551.4	1586.6	1728.3	1864.4	1974.7
	- Air, Rail, Marine	382.0	360.0	343.1	375.8	392.7	405.4	456.7	506.2	558.6
	- Total	1895.4	1825.3	1831.7	1907.9	1944.1	1992.0	2185.0	2370.6	2533.2
Non-Energy [a]		632.6	649.0	655.5	663.2	714.8	757.1	871.0	968.9	1071.8
Total End Use		7411.3	7301.2	7321.9	7526.4	7762.2	8039.0	9033.4	9942.9	10861.8
Own Use		549.8	577.1	575.1	581.8	586.4	597.6	651.3	746.4	847.4
Electricity and Steam Generation [b][d]		2952.2	3093.7	3094.7	3145.7	3312.5	3432.9	3883.9	4288.8	4673.9
Other Conversions		157.8	155.7	151.5	159.7	169.9	181.9	219.2	256.8	293.6
Total Own Use and Conversions		3659.8	3826.4	3821.3	3887.2	4068.8	4212.4	4754.4	5292.0	5814.9
Less Electricity, Steam, Coke and Coke Oven Gas		1826.1	1891.8	1880.9	1929.0	1994.7	2075.0	2381.3	2666.8	2964.8
Primary Energy Demand		9237.4	9235.9	9262.3	9484.5	9836.3	10176.4	11406.5	12568.1	13711.8
Primary Energy Demand by Fuel [c][d]										
Nuclear [b]		823.1	958.2	926.6	1085.2	1148.6	1154.5	1240.5	1267.9	1238.1
Hydro [b]		1018.8	1041.4	1045.4	1059.7	1087.1	1112.5	1193.5	1259.2	1341.0
Oil		3238.7	3071.8	3093.1	3141.9	3182.3	3274.6	3511.9	3774.3	4003.1
Natural Gas		2299.7	2294.9	2367.0	2444.7	2548.6	2631.7	3111.7	3560.9	4109.9
NGL-Gas Plant		131.9	155.5	154.1	162.6	165.1	177.0	212.9	237.8	262.9
Ethane		113.7	113.9	108.2	102.8	115.5	129.2	178.5	210.3	243.7
Coal		1050.6	1060.1	1051.2	952.4	1029.7	1109.1	1278.2	1509.7	1690.3
Renewables and Others		530.8	538.0	517.6	536.0	559.9	588.4	679.8	748.6	823.4

(1) 1991 last year of actual data

[a] Includes Petrochemicals.

[b] Hydro is converted at 3.6 GJ/MWh. A typical conversion rate for nuclear plants is 12.1 GJ/MWh; actual rates are based on specific plant efficiencies.

[c] Butanes for blending in gasoline is excluded from oil and included in NGL-Gas Plant at primary fuels level.

[d] Fuels used to generate electricity exports are not included



## National Energy Board



CANADA

## Office national de l'énergie

File No.: 418-A000-3

Dossier: 418-A000-3

Date: 30 March 1995

Date: le 30 mars 1995

To: Interested Parties

À: Parties intéressées

Re: Awarding of Verbatim Reporting  
Service ContractObjet: Octroi d'un contrat de  
sténographie judiciaire

The National Energy Board has awarded a two-year contract to Keeley Reporting Services Inc. of Ottawa to provide verbatim reporting services to the Board.

L'Office national de l'énergie a accordé à Keeley Reporting Services Inc., d'Ottawa, un contrat de deux ans pour des services de sténographie judiciaire.

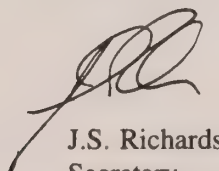
The contract was awarded following a competitive bid process in which six companies submitted proposals.

Dans le cadre du processus d'appel d'offres, six compagnies avaient soumis des propositions.

The contract, which is being awarded through Public Works and Government Services Canada, is in effect from April 1, 1995 to March 31, 1997 inclusive, with an option to extend it for an additional two years. The contract work is at no cost to the Board with charges for transcripts being paid by persons requesting them.

Le contrat, octroyé par Travaux publics et Services gouvernementaux Canada, entre en vigueur le 1<sup>er</sup> avril 1995 et se termine le 31 mars 1997, inclusivement, avec possibilité de reconduction pour deux autres années. Les services de sténographie ne coûtent rien à l'Office puisque les transcriptions sont payées par les personnes qui en font la demande.

Le Secrétaire,



J.S. Richardson  
Secretary









File No. 7500-3

31 March 1995

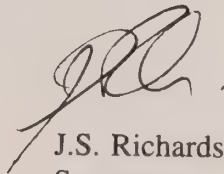
To: **ALL INTERESTED PERSONS**

Re: **REVISED PART VI REGULATIONS AND EXPORT AND IMPORT REPORTING  
REGULATIONS - BOARD LETTER DATED 24 FEBRUARY 1995**

On 24 February 1995 the Board issued the draft *National Energy Board Part VI Regulations, 1995* and *National Energy Board Export and Import Reporting Regulations* (together "the Regulations") for comment. It was expected at that time that they would be prepublished in the *Canada Gazette*, Part I shortly after that date. With this in mind, the Board set a date for receipt of comments by 17 April 1995.

Unfortunately, prepublication of the Regulations was delayed. The Board has therefore decided to postpone the due date for comments until early June 1995. The Board will issue a letter establishing the exact date once the date of prepublication is known. However, in light of these delays, if parties are in a position to provide comments early it would assist the Board in processing the Regulations as expeditiously as possible.

Copies of the orders and Regulations (in both English and French) may be obtained by telephoning the Board's Regulatory Support Office at (403) 292-4800. For further information about the Regulations or the procedure for this review, contact Margery Fowke, Legal Counsel (403) 299-2708, Cliff Brown, Manager, Gas Export Division, Energy Commodities Branch (403) 299-3190, or Paul Bourgeois, Manager, Natural Gas Supply Division, Energy Resources Branch (403) 299-3149.



J.S. Richardson  
Secretary



National Energy Board



Office national de l'énergie

CAI  
MT76  
-N 53

File No. 7500-3

10 May 1995

To: **ALL INTERESTED PERSONS**

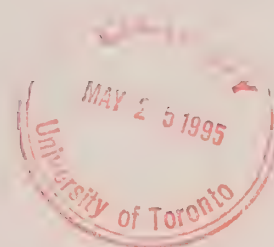
Re: **REVISED PART VI REGULATIONS AND EXPORT AND IMPORT REPORTING REGULATIONS**

On 24 February 1995, the Board issued revised *National Energy Board Part VI Regulations, 1995* and *National Energy Board Export and Import Reporting Regulations* (together, "the Regulations") for comment. On 31 March 1995 the Board extended the date for comments on the Regulations until early June 1995. This postponement was as a result of delays in prepublishing the Regulations in the *Canada Gazette*, Part I.

The Regulations were prepublished in the *Canada Gazette*, Part I on 6 May 1995. Parties wishing to comment therefore have until Monday, 5 June 1995. The Board encourages parties to file before that date, if possible, in order to expedite the process.

Copies of the Regulations (in both English and French) may be obtained by telephoning the Board's Regulatory Support Office at (403) 292-4800. For further information about the Regulations or the procedure for this review, contact Margery Fowke, Legal Counsel (403) 299-2708, Cliff Brown, Manager, Gas Export Division, Energy Commodities Branch (403) 299-3190, or Paul Bourgeois, Manager, Natural Gas Supply Division, Energy Resources Branch (403) 299-3149.

for: J.S. Richardson  
Secretary







CAI  
MT76  
N53

National Energy Board



Office national de l'énergie

File No.: 3040-A000-1

13 June 1995

To: Pipeline Companies Under the Board's Jurisdiction

Re: Report of the (U.S.) National Transportation Safety Board on a Pipeline Rupture  
in Edison, New Jersey, U.S.A

On 23 March 1994, a 914 mm (36-inch) diameter natural gas transmission pipeline owned and operated by Texas Eastern Transmission Corporation ("TETCO") ruptured with serious consequences in Edison Township, New Jersey. The U.S. National Transportation Safety Board ("NTSB") recently released its Pipeline Accident Report with respect to the Edison incident. The investigation revealed a number of concerns with respect to TETCO's operation of its pipeline system, particularly in the areas of public awareness, aerial line surveillance, line marking and the rapid shutdown of failed pipelines.

The purpose of this letter is to familiarize the Canadian pipeline industry with the key findings and recommendations of the NTSB report. The attachment to this letter summarizes the NTSB's findings and provides the Board's comments on these issues.

The Edison incident underscores the value of rigorous line patrols and effective line marking and public awareness programs. The Board encourages pipeline companies to periodically re-evaluate their operations to ensure that an incident of this type does not occur in Canada. In addition, companies are reminded that safety-related correspondence from the Board should be disseminated to the appropriate company personnel.

Interested parties may obtain a copy of the NTSB's Pipeline Accident Report (PB95-916501; NTSB/PAR-95/01) by contacting:

National Technical Information Service  
5285 Port Royal Road  
Springfield, Virginia 22161  
telephone: (703) 487-4600



J.S. Richardson  
Secretary

Attach.



### **Review of the (U.S.) NTSB's Report on the Edison Incident**

On 23 March 1994, a 914 mm (36-inch) diameter natural gas transmission pipeline owned and operated by Texas Eastern Transmission Corporation ("TETCO") ruptured in Edison Township, New Jersey, within the property of an asphalt plant. The pipeline ruptured in a brittle manner, allowing the full flow of escaping gas for 2 ½ hours. Ignition of the gas occurred within minutes of the rupture. The radiant heat from the gas fire ignited eight nearby apartment buildings, destroying them and forcing the evacuation of approximately 1500 residents. The incident resulted in one fatality, which was not directly attributed to the pipeline rupture.

The purpose of this review is to familiarize the Canadian pipeline industry with the findings and recommendations of the (U.S.) National Transportation Safety Board ("NTSB"), and to sensitize pipeline companies to the value of rigorous line patrols and effective line marking and public awareness programs.

#### **NTSB Findings and Recommendations**

##### *(i) Probable Cause*

The NTSB determined that the probable cause of the rupture was mechanical damage to the exterior surface of the pipe (occurring sometime after 1986) that reduced the wall thickness and likely created a crack that grew to critical size. The mechanical damage to the pipeline is believed to have been caused by backhoe excavation within the asphalt plant site traversed by the pipeline. After the incident, work crews excavating near the rupture site found over 400 items buried near the pipeline, many of which were buried at the same depth as the pipeline. These items included office equipment, building parts, plant equipment and a crushed pickup truck reported stolen in 1990.

##### *(ii) Aerial Patrols*

The NTSB found that TETCO had failed to identify in its weekly aerial patrols that the use of mechanized excavation equipment within the asphalt plant site could endanger the company's pipeline. TETCO's pilots did not report activities within the asphalt plant compound, since the pilots associated truck traffic, the movement of stockpiled materials and the use of excavation equipment as part of the day-to-day operations of the plant. The NTSB found that pilot's training did not include specific instructions related to industrial areas traversed by the pipeline, and a review of aerial surveillance records dating back to 1968 revealed no reports of any excavation activity within the asphalt plant.

The NTSB recommended that TETCO require its pilots to document all patrol observations of excavation activity adjacent to its pipelines, noting specifically excavation activities within industrial properties. It also recommended that the pilot's report be attached or referenced in correlative reports documenting any response taken by TETCO personnel.





*(iii) Public Awareness*

TETCO's public awareness program consisted of annually mailing flyers to property owners on or adjacent to the pipeline, including the owners of the asphalt plant and the nearby apartment complex. The company never evaluated the effectiveness of its public awareness program, but it was of the view that apartment managers or landlords should advise their tenants of the existence of the gas pipeline. However, none of the apartment residents questioned by the NTSB had any prior knowledge of the pipeline's existence, and interviews with current and past employees of the asphalt plant revealed that only persons who had seen the pipeline being built in the early 1960's, or had seen TETCO line markers or TETCO personnel walking the line, were aware that a pipeline was within the plant property. None of the asphalt plant employees recalled being trained or familiarized about the pipeline or any precautions to take when working near it from the current or previous owners of the plant. Although TETCO had been a member of the Garden State Underground Plant Location Service (a one-call system in New Jersey) for many years, it never received notice of any excavations within the asphalt plant property.

In its Report, the NTSB advised TETCO to modify the information in its annual public awareness mailings to encourage recipients to disseminate pipeline safety precautions to tenants and employees who reside and work in areas adjacent to high-pressure pipelines.

*(iv) Pipeline Markers*

At the time the pipeline was constructed in 1961, the American Standard Code for Pressure Pipes, 1955 Edition contained no requirements for marking the location of buried pipelines. TETCO installed pipeline markers exceeding current federal minimum guidelines near the asphalt plant and between the plant and the apartment buildings, but it did not install markers within the asphalt plant complex or on the plant fence. Current U.S. federal guidelines exempt gas pipeline companies from erecting markers in Class 3 or 4 locations if the company has a damage prevention (public awareness) program that meets federal standards.

The NTSB was of the view that pipeline markers on the earthen berm surrounding the plant, on the pavement, and other locations within the asphalt plant property may have alerted plant personnel to the location of the pipeline, and increased the probability that someone would have notified TETCO before excavating near its pipeline. It was also of the view that damage prevention programs should not be considered an alternative to pipeline markers, but that markers should be used extensively in urban areas as an integral part of a company's damage prevention program.

*(v) Rapid Shutdown of Failed Pipeline*

Following the line rupture, TETCO was not able to shut off the supply of gas for 2 ½ hours, primarily because personnel had to travel to the valve sites and manually activate the valves. One valve, upstream of the rupture site, could not be closed initially because the valve operator would not function at the reduced line pressure. Therefore, maintenance crews had to be dispatched to the next upstream valve.

The NTSB found that the inability of TETCO to promptly stop the flow of natural gas to the rupture contributed to the severity of the accident. The NTSB recommended that the Research and



Special Programs Administration of the U.S. Department of Transportation expedite federal requirements for the installation of automatic or remote-operated mainline valves on high-pressure pipelines in urban and environmentally sensitive areas, to provide for the rapid shutdown of failed pipeline segments.

### **National Energy Board Comments**

With respect to aerial surveillance, the Board notes that Clause 10.5.1.1 of CSA Z662-94 "Oil and Gas Pipeline Systems"<sup>1</sup> requires that operating companies patrol their pipelines periodically to observe surface conditions, indications of leaks, construction activity performed by others and other conditions affecting the safety and operation of the pipeline. Additionally, paragraph 48(1)(j) of the *Onshore Pipeline Regulations* requires that these monitoring and surveillance programs be set out in a company's operation and maintenance manual. The Board expects that extra vigilance would be used when patrolling pipelines within industrial sites, as would be expected in all areas having a high potential for excavation activity.

Section 4 of the Board's *Pipeline Crossing Regulations, Part II* requires that, in addition to establishing an ongoing public awareness program, companies must assess the effectiveness of their public awareness program on a regular basis. Section 50 of the *Onshore Pipeline Regulations* requires that companies operating HVP pipelines annually distribute to police, fire departments, other local agencies and to the public residing near a pipeline, information dealing with the identification and safety procedures for emergency situations. Proposed amendments to the *Onshore Pipeline Regulations* will expand this requirement so that all pipeline companies must establish continuing educational programs. The Board is of the view that pipeline companies should stress in their public awareness programs that pipeline safety information should be disseminated to those individuals most likely to come in contact with the pipeline.

In Canada, the marking of transmission pipelines within industrial sites is not explicitly required, but CSA Z662-94 requires that signs be placed at strategic areas of anticipated third party activity and that consideration be given to placing signs at property boundaries. Clause 10.2.8 of CSA Z662-94 provides further detailed requirements for pipeline identification.

The Board notes that Clause 4.4.6 of CSA Z662-94 requires the use of remotely operated valves only where the failure of an HVP pipeline would cause an extreme hazard (eg. major industrial complexes, commercial navigable waters or densely populated urban areas). The Board is currently reviewing the use of remotely operated valves in Canada.

In summary, the Board is of the view that its current regulations adequately address the concerns raised by the NTSB in this Pipeline Accident Report. The Board expects pipeline companies to be vigilant in their compliance with all operational safety regulations, and to periodically re-evaluate their operations to ensure that an incident of this type does not occur in Canada.

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<sup>1</sup> As indicated in its letter to all regulated companies dated 30 March 1995, the Board is proceeding with a set of housekeeping amendments aimed at incorporating CSA Z662-94 into the *Onshore Pipeline Regulations*.







National Energy Board

Office national de l'énergie

CAI  
MT76  
-N 53File No. 320-A000-3  
20 September 1995

To: Interested Parties

Subject: Board Document System - Public Access

On behalf of the National Energy Board, I would like to thank you for your interest in the Board Document System. We ask that you complete the enclosed User Agreement to obtain on-line access to the Board Document System database. Please note that passwords will be issued on an individual basis rather than by company or organization.

Simply return your completed access agreement by mail or fax to our address below. Once your request has been processed, you will be notified by phone. Shortly afterward, you will receive a copy of the Board Document System User Guide and an authorized account package in the mail. Should you require further assistance, or information about your password and user id, please contact our Computer Help Centre at (403) 292-6967.

We hope that you will find the Board Document System a useful tool for research and information purposes. We will be upgrading the system and adding new document types as they become available in electronic format.

Yours truly,

Ruth Grenville  
Communications



**NATIONAL ENERGY BOARD**

**BOARD DOCUMENT SYSTEM  
ACCESS AGREEMENT**

Licensee: \_\_\_\_\_  
(Name of company, organization or individual entering into this agreement)

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contact person: \_\_\_\_\_

The National Energy Board (the "Board") has established a facility called the Board Document System (BDS) to provide electronic access by the public to certain documents stored on the Board's computer system.

In consideration of the Board providing the party named above (hereinafter called the "Licensee") with access to the BDS, Licensee agrees to the following terms and conditions:

1. Licensee shall not disclose any user identifier(s) or password(s) assigned to access the BDS except on an individual basis to those employees or agents of Licensee identified to the Board as being specifically authorized by Licensee to access the BDS on Licensee's behalf and for whom the Board has issued an individual password or identifier. Licensee shall take all reasonable precautions to keep such identifier(s) or password(s) confidential and shall obtain reasonable assurances from its named employees and agents that they will keep their respective identifiers or passwords confidential and that they are aware of and will comply with the provisions of this agreement. Licensee shall be responsible for any misuse of the BDS or any programs or information obtained from the BDS where access to the BDS has been gained through any identifier or password assigned to Licensee or any of its named employees or agents. If Licensee at any time has reason to believe that the security of an identifier or password has been compromised, Licensee shall immediately notify the Board.
2. Licensee agrees to respect all copyright and licence restrictions attached to the programs and information contained on the BDS and Licensee shall indemnify the Board against any claims that may be made against the Board by any third party as a result of a breach of this provision.
3. The Board does not warrant the accuracy or completeness of information contained on the BDS, which may differ in format or content from the official paper documents filed with the Board as a result of the digital storage and retrieval process or otherwise. The official





paper documents may be examined in the Board's library and should be consulted if Licensee intends to rely on any information contained on the BDS. In no event will the Board be liable to Licensee for any damages, including any loss of profits or other incidental or consequential damages, arising out of the use of the BDS, any programs or information obtained from the BDS (including the transmission of program codes known as "viruses"), any unavailability or malfunction of the BDS, or Licensee's inability to use the BDS for any reason including the cancellation of Licensee's access privileges with or without cause.

4. The Board reserves the right to change the BDS software and the information that is accessible through the BDS at any time without notice.

5. The Board reserves the right to change or cancel any password or other identifier assigned to Licensee or any of Licensee's employees or agents at any time without notice. Such user identifiers or passwords will in any case expire without further notice one year from the date of this agreement, at which time Licensee may reapply to the Board for access privileges. If the Board reissues identifier(s), password(s), or other means of access to Licensee, the terms and conditions of this agreement shall continue to apply in all respects to the use of the BDS through such identifier(s), password(s), or other means of access, without additional confirmation by Licensee.

6. The Board reserves the right to charge user fees for accessing the BDS or to otherwise change the terms and conditions under which access to the BDS is provided. Notice of any user fees, revisions to such fees, or changes to the terms and conditions under which access to the BDS is provided may be given by electronic notice on the BDS or in the manner provided in section 8 below. Any use of the BDS by or on behalf of Licensee after such notice is posted on the BDS or has otherwise been given to Licensee shall be deemed to constitute Licensee's agreement thereto and this agreement shall be deemed to be amended accordingly.

7. Licensee shall be responsible for providing terminal equipment capable of accessing the BDS through the telephone network. Licensee shall be responsible for all telephone charges or other third party charges incurred by Licensee in accessing the BDS.

8. Any notice to Licensee under this agreement may be given by telecopied message sent to Licensee's fax number noted above or by ordinary mail addressed to Licensee's address noted above. Notices mailed to Licensee shall be deemed to have been received by Licensee 5 days after mailing. Licensee shall notify the Board of any change of address or phone numbers.

9. This agreement supersedes any previous agreement relating to the subject matter hereof, whether written or oral, and represents the entire agreement between the parties. Subject to section 6 above, this agreement may only be amended on behalf of the Board by instrument in writing signed by the Secretary of the Board. No other employee or representative of the Board has the authority to amend this agreement or to waive any of its provisions.



10. This agreement may be terminated by Licensee at any time by giving written notice to the Secretary of the Board at least three days before the effective date of termination. Such termination shall not affect any obligations of Licensee under this agreement accruing before the date of termination.

IN WITNESS WHEREOF the above-named Licensee has executed this agreement (or caused it to be executed by its duly authorized representative) this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

(Signature)

(Please print name and indicate title)

User name(s): (if Licensee is a company or organization)

PLEASE PRINT IN BLOCK LETTERS

FOR NEB USE

[illegible]





National Energy Board



Office national de l'énergie

CAI  
MT76  
- N. 53

File No.: 3600-A001-15  
Date: 16 November 1995

To: All Interested Parties, and  
All Pipeline Companies Under the National Energy Board's Jurisdiction

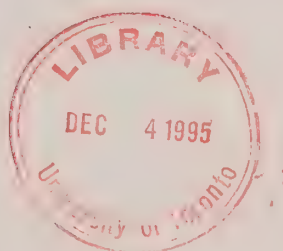
**RE: SECTION 58 STREAMLINING INITIATIVE**

The National Energy Board ("the Board") has revised Streamlining Order XG/XO-100-94, dated 13 June 1994 in order to take into account the requirements of the *Canadian Environmental Assessment Act* ("CEAA"). In addition, some modifications have been made to the Streamlining Order as a result of experience with the existing Streamlining Order.

The projects listed in Schedule A have been revised to ensure that they are contained within the CEAA *Exclusion List Regulations* or are of a type that do not meet the criteria of a "project" pursuant to CEAA, and therefore the requirements of CEAA do not apply. The changes generally relate to projects involving buildings, fences, parking lots and projects of an emergency nature.

Based on a review of submissions made to the Board pursuant to Condition 1 of XG/XO-100-94, the Board has found it desirable to further qualify the projects listed in Schedule A in order to ensure that they do not relate to the disposal or storage of toxic substances, increase noise emissions or emissions of air contaminants or result in local nuisance potential. These criteria are included in Part II of the Board's *Guidelines for Filing Requirements* concerning Early Public Notification. The Board has also added compressor and pumping unit components to Schedule A.

The selected types of projects, listed in Schedule A, have been determined to have no environmental effects and are not subject to assessment pursuant to the CEAA. The projects have been found by the Board to be required and in the public interest. As such, the Board has decided to issue Order XG/XO-100-94 Revision 1 to the pipeline companies listed in Schedule B, in respect to the projects listed in Schedule A, to the attached Order. The Board hereby rescinds Order XG/XO-100-94 dated 13 June 1994. Adherence to the requirements of the *Onshore Pipeline Regulations* will ensure the safe installation and operation of any facilities constructed pursuant to this Order.



.../2


The Board reminds the pipeline companies of the reporting requirements outlined in the conditions to the attached Order. With respect to reporting of expenditures undertaken, the Board notes that the issuance of an exemption order does not imply that the Board is approving expenditures for exempted projects for inclusion in rate base. Companies wishing to include such expenditures in rate base must justify them under Part IV of the *National Energy Board Act* ("the Act"). The Order includes various reporting requirements including a requirement to advise the Board 60 days prior to construction of any planned projects for which the anticipated expenditure is greater than \$200,000. The Board directs each Group I pipeline company to serve such reports on its Section 58 Interested Parties List.

The Board expects companies to continue to apply for Board approval of those projects not listed in Schedule A. However, many projects undertaken by pipeline companies are part of a well-defined, multi-year program. The Board is of the view that a large number of those projects are well suited to a single, one-time examination at the commencement of the program. Therefore, the Board will continue to review applications relating to multi-year projects which may be filed by the companies. Interested parties would be able to examine such applications and comment. No diminution of scrutiny would result, and this approach would enable companies desiring increased flexibility, the opportunity to seek a one-time exemption rather than file repetitive yearly applications. The eligibility criteria for multi-year applications has been updated to reflect the requirements of the CEAA and the new eligibility criteria for multi-year applications are as follows:

- i) the project would not be driven by an increase in throughput or changes in the character of service;
- ii) the project would not produce any adverse environmental effects and is not subject to assessment under the CEAA;
- iii) the project could be exempted from the provisions of Part II of the *Guidelines for Filing Requirements*; and
- iv) the application would clearly set out the long-term justification for the well-defined, multi-year program.

Scope changes which might develop over time would continue to be examined pursuant to section 21 of the Act.

A copy of Revision 1 of XG/XO-100-94 is appended.

  
for: J.S. Richardson  
Secretary



**ORDER XG/XO-100-94**

**Revision 1**

**IN THE MATTER OF** the *National Energy Board Act* ("the Act") and the regulations made thereunder; and

**IN THE MATTER OF** a National Energy Board ("the Board") initiative regarding exemptions in respect of the addition of specified pipeline facilities under its jurisdiction pursuant to section 58 of the Act, as set out in the Board's discussion paper dated 8 December 1993, file number 3600-A001-15;

**BEFORE** the Board on 2 November 1995.

**WHEREAS** the Board is satisfied that the projects listed in Schedule "A" are routine or repetitive in nature and are required by the pipeline companies listed in Schedule "B";

**AND WHEREAS** the Board has determined that the projects, as described in Schedule "A", have no adverse environmental effects and are not subject to environmental assessment under the *Canadian Environmental Assessment Act*;

**AND WHEREAS** the Board considers it to be in the public interest to grant an exemption order in respect of the projects listed in Schedule "A";

**IT IS ORDERED** that Order XG/XO-100-94 dated 13 June 1994 is revoked;

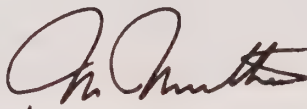
**IT IS FURTHER ORDERED** under section 58 of the Act that the projects listed in Schedule "A", attached to and forming part of this Order, are exempt from the provisions of sections 30, 31 and 47 of the Act, upon the following conditions:

1. Unless the Board otherwise directs, pipeline companies under the Board's jurisdiction shall, for those projects listed in Schedule "A":
  - a) advise the Board 60 days prior to construction of any planned projects for which the anticipated expenditure is greater than \$200,000. Such reports must include a statement describing the project, including location(s), and the estimated cost;
  - b) report annually following construction, installation, or procurement on any expenditures undertaken pursuant to this Order;



- c) report immediately, in writing, to the Board on any air, soil or groundwater contaminants, or any legislated hazardous wastes found during activities related to the construction or installation of the project, and provide a detailed description of the proposed disposal methods; and
  - d) for those projects undertaken and of an emergency nature, as categorized by item 11 in Schedule A, report annually to the Board providing a brief description of the project and the nature of the emergency requiring immediate implementation, including the alternatives considered.
2. Unless the Board otherwise directs, this Order shall expire in respect of any specific pipeline company within 15 days of the date on which that pipeline permanently ceases to operate.

NATIONAL ENERGY BOARD



*for* J.S. Richardson  
Secretary



## SCHEDULE "A"

For the purposes of this Order, any project identified in this Schedule under items 6 to 10 inclusive shall be for work contained within the confines of land owned or leased by the applicant, and shall not:

- (A) relate to an increase in the storage or disposal of toxic substances;
- (B) result in increased noise emissions;
- (C) result in increased emissions of air contaminants; or
- (D) result in local nuisance potential, including the potential for increased noise or traffic.

### Projects

1. Vehicles.
2. Tools and equipment.
3. Office equipment including personal computers and furniture.
4. Projects related to leasehold improvements.
5. Computer hardware and software, excluding new SCADA and leak detection systems.
- 6<sup>1</sup>. The expansion or modification of an existing building, including its fixed structures, that would not:
  - (a) increase the footprint or height of the building by more than 10 percent;
  - (b) be carried out in or on or within 30 m of a water body; and
  - (c) involve the likely release of a polluting substance into a water body.
- 7<sup>1</sup>. The construction of a sidewalk or boardwalk, or a parking lot with a parking capacity of 10 automobiles or fewer, where the construction:
  - (a) would be contiguous to an existing building;
  - (b) would not be carried out in or on or within 30 m of a water body; and
  - (c) would not involve the likely release of a polluting substance into a water body.
- 8<sup>1</sup>. The expansion or modification of an existing sidewalk, boardwalk or parking lot, that would not:
  - (a) increase the area of the sidewalk, boardwalk or parking lot by more than 10 percent;
  - (b) be carried out in or on or within 30 m of a water body; and
  - (c) involve the likely release of a polluting substance into a water body.

.../2

- 9<sup>1</sup>. The expansion or modification of an existing fence, that would not:
- (a) increase the length or height of the fence by more than 10 percent;
  - (b) be carried out in or on or within 30 m of a water body; and
  - (c) involve the likely release of a polluting substance into a water body.
- 10<sup>2,3</sup>. Routine repair and replacement due to age, condition, or obsolescence, of:
- (a) valves and related equipment, excluding relocations,
  - (b) system control, monitoring and detection equipment,
  - (c) gas plant equipment<sup>4</sup>,
  - (d) meters and related equipment,
  - (e) mobile equipment,
  - (f) battery chargers, not including batteries,
  - (g) signage,
  - (h) wiring,
  - (i) lighting, not including light ballasts containing PCBs,
  - (j) plumbing,
  - (k) boilers and heating systems,
  - (l) air conditioning and ventilation systems, that does not involve the disposal of chlorofluorocarbons, and
  - (m) compressor and pumping unit components.
11. The project is to be carried out in response to an emergency and carrying out the project forthwith is in the interest of preventing damage to property or the environment or is in the interest of public health or safety; or the project is to be carried out in response to a national emergency for which special temporary measures are being taken under the *Emergencies Act*, R.S., 1985, c. 22 (4th Supp.).

**Definitions:**

- <sup>1</sup> From the *Exclusion List Regulations* under the *Canadian Environmental Assessment Act*.
- <sup>2</sup> **Routine projects:** projects of a conventional type which are neither unique nor extraordinary.
- <sup>3</sup> **Replacements due to age, condition or obsolescence:** replacement projects of items which, by their nature, are no longer efficient, economic, or safe, and are essential to the operation of the pipeline with the understanding that some degree of upgrade is implicit in such a replacement. The project types are not to be interpreted as including significant upgrades or reworks.
- <sup>4</sup> This item would only apply to Westcoast Energy Inc.

## **SCHEDULE "B"**

Alberta Natural Gas Company Ltd	Northrock Resources Ltd.
Amerada Hess Canada Ltd.	Novacor Chemicals (Canada) Ltd.
Amoco Canada Petroleum Company Ltd.	Novacorp International (Canada) Ltd.
Aurora Pipe Line Company	Novagas Clearinghouse Pipelines Ltd.
Blue Range Resource Corporation	Peace River Transmission Company Limited
Canadian Hunter Exploration Ltd.	Petroleum Transmission Company
Canadian-Montana Pipe Line Company	Petrorep (Canada) Ltd.
Centra Transmission Holdings Inc.	Poco Petroleums Ltd.
Champion Pipe Line Corporation Limited	Portal Municipal Gas Company Canada Inc.
Chief Mountain Gas Co-op Ltd.	Pouce Coupé Pipe Line Ltd.
Cochin Pipe Lines Ltd.	Remington Energy Ltd.
Consumers' Gas (Canada) Ltd.	Revenue Canada - Customs and Excise
Cube Energy Corp.	SCL Pipeline Inc.
Dome Kerrobert Pipeline Ltd. and Pan Canadian Kerrobert Pipeline Ltd.	SCL Quebec Pipeline Inc.
Dome NGL Pipeline Ltd.	St. Clair Pipelines Ltd.
Dome NGL Pipeline Ltd. and Amoco Canada Petroleum Company Ltd.	Sun Pipe Line Company
ELAN Energy Inc.	Talisman Energy Inc.
Ethane Shippers Joint Venture	TransCanada PipeLines Ltd.
Fletcher Challenge Petroleum Inc.	Trans Mountain Pipe Line Company Ltd.
Foothills Pipe Lines Ltd.	Trans-Northern Pipelines Inc.
Genesis Pipeline Canada Ltd.	Trans Québec & Martimes Pipelines Inc.
Huntingdon International Pipeline Corporation	Union Gas Limited
Husky Oil Operations Ltd.	Wascana Pipe Line Ltd.
Imperial Oil Resources Limited	Westcoast Energy Inc.
Interprovincial Pipe Line (NW) Ltd.	Westspur Pipe Line Company Inc.
Interprovincial Pipe Line Inc.	Yukon Pipelines Limited
Inverness Petroleum Limited	167496 Canada Ltd.
ISH Energy Ltd.	
Joint Venturers of the Bi-Provincial Upgrader	
Manito Pipelines Ltd.	
Many Islands Pipe Lines (Canada) Limited	
Mid-Continent Pipelines Limited	
Minell Pipeline Ltd.	
Montreal Pipe Line Limited	
Morgan Hydrocarbons Ltd.	
Morrison Petroleums Ltd.	
Murphy Oil Company Ltd.	
Neutrino Resources Inc.	
Niagara Gas Transmission Limited	





National Energy Board



Office national de l'énergie

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File 132-A000-27

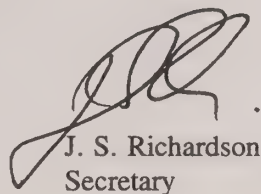
6 December 1995

**To: ALL COMPANIES UNDER THE BOARD'S  
JURISDICTION AND INTERESTED PARTIES**

**Re: Regulation of Group 2 Companies  
Update of the Memorandum of Guidance dated 22 November 1990**

Attached is an updated version of the Memorandum of Guidance on the regulation of Group 2 companies that the Board issued on 22 November 1990.

Since the issuance of the Memorandum of Guidance in 1990, there have been further developments in the Board's regulations and policy instruments, most notably the issuance of the *Guidelines for Filing Requirements* on 22 February 1995. These changes have required a further update of the Memorandum of Guidance.



J. S. Richardson  
Secretary

Attach.







File 132-A000-27  
6 December 1995

## MEMORANDUM OF GUIDANCE

### Regulation of Group 2 Companies

This Memorandum of Guidance updates and replaces the one issued on 22 November 1990. Most changes stem from the amendments in the Board's enabling statutes and regulations.

The pipeline companies regulated by the Board are divided into two groups. Group 1 companies are generally identified as those with extensive systems under the Board's jurisdiction, whereas those with lesser operations are designated as Group 2 companies.

This Memorandum of Guidance streamlines and simplifies, for Group 2 companies, the regulatory requirements of the *National Energy Board Act* ("NEB Act"), the *Guidelines for Filing Requirements* ("Guidelines") issued 22 February 1995, the *Onshore Pipeline Regulations* ("OPR"), the *Oil Pipeline Uniform Accounting Regulations*, the *Gas Pipeline Uniform Accounting Regulations*, and the *Pipeline Crossing Regulations* ("PCR"). Group 1 companies are not affected by this Memorandum of Guidance and continue to be subjected to the full existing regulatory requirements.

Group 1 companies consist of the ten pipeline companies listed below.

Alberta Natural Gas Company Ltd  
Cochin Pipe Lines Ltd.  
Foothills Pipe Lines Ltd.  
Interprovincial Pipe Line Inc.  
Interprovincial Pipe Line (NW) Ltd.  
TransCanada PipeLines Limited  
Trans Québec & Maritimes Pipeline Inc.  
Trans Mountain Pipe Line Company Ltd.  
Trans-Northern Pipelines Inc.  
Westcoast Energy Inc.

Any company which is not a Group 1 company is considered to be a Group 2 company. For a listing of Group 2 companies, please consult the Board's most recent Annual Report.

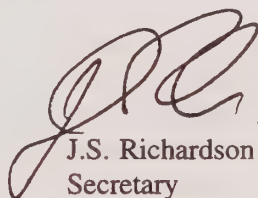
Schedules A and B deal with the Board's two basic types of regulation, namely facilities and financial. The extent of those two types of regulation for Group 2 companies is as follows:

.../2

Facilities: Schedule A sets out the minimum information requirements for the design, construction, and operation of pipelines.

Financial: Schedule B sets out the guidelines for the regulation of tolls and tariffs. Financial regulation of Group 2 companies is normally carried out on a complaint basis, with a consequent reduction in financial reporting requirements. Detailed information in support of a tariff filing will be required only after a complaint has been received or upon request by the Board.

The Board believes that the Memorandum of Guidance will provide continued guidance and information to Group 2 companies and to potential applicants. Even though it can be used on a stand-alone basis, the Memorandum of Guidance is a general guideline only. Explanatory details of the requirements in Schedules A and B can be found in the NEB Act, the Guidelines and the above-mentioned regulations. These documents must be consulted to ensure that all regulatory requirements are satisfied.



J.S. Richardson  
Secretary



## **GUIDELINES FOR THE INFORMATION REQUIRED TO BE FILED BY GROUP 2 COMPANIES**

The National Energy Board regulates the design, construction, operation and abandonment of pipelines under Part III of the NEB Act, the OPR, and the PCR. The information requirements for applications for pipeline facilities are set out in the Guidelines.

Approval of an application, pursuant to section 52 of the NEB Act, for the construction or extension of a pipeline exceeding 40 kilometres in length requires a Certificate of Public Convenience and Necessity which in turn requires a public hearing and, in the event of a decision by the Board that a certificate should be issued, approval of the decision by the Governor in Council. In addition, pursuant to section 33 of the NEB Act, an applicant may be required to submit to the Board for approval the plan, profile (optional) and book of reference for the applied-for facilities. Lastly, for facilities approved under section 52 of the NEB Act, leave to open to place the facilities into service will generally be required.

Applications, pursuant to section 58 of the NEB Act, for the construction of pipelines less than 40 kilometres in length can be authorized by a Board order without a public hearing; however, where circumstances warrant, the Board may conduct a public hearing. Leave to open to place facilities, approved under section 58 of the NEB Act, into service is required where exemption from the leave to open requirements of the NEB Act has not been specifically granted.

Where pipeline companies plan to abandon, sell, purchase or lease pipelines or pipeline facilities, an application, pursuant to section 74 of the NEB Act, must be made and leave of the Board obtained prior to carrying out the activity or transaction.

In order to tailor the information requirements to the particular circumstances of Group 2 companies, the Board has adopted the following approach to the regulation of the construction and operation of pipelines.

### **I. Application for Construction**

Group 2 companies wishing to apply for approval to construct and operate a pipeline and associated facilities must provide the information required by the Guidelines. To ensure that the requirements of the *Canadian Environmental Assessment Act* ("CEAA") are met, the Guidelines incorporate, as much as possible, the CEAA requirements.

The level of detail of the information required shall correspond to the nature and magnitude of the project but shall provide the Board with sufficient information to examine the project. The level of detail of the information required for Early Public Notification and Environmental, Socio-Economic and Lands information shall correspond to the nature and magnitude of the anticipated environmental impact of the proposed project but shall in any event provide the Board with sufficient information to examine the environmental or socio-economic effects of the project. Where any information required to be filed is not filed with the application, the applicant shall, pursuant to section 16 of the *National Energy Board Rules of Practice and Procedure, 1995*, attach to the application a statement as follows:

- (a) where the information is already in the Board's possession, identifying the information and the circumstances under which it came into the possession of the Board;
- (b) where the information is unavailable to the applicant at the time of filing, identifying the date on which the applicant intends to file the required information; or
- (c) where the applicant objects to the filing of the information, setting out the objection and the grounds therefor.

Below is a list of the information required to be filed. Upon receiving that information, and any such information the Board additionally requests, the Board ordinarily would:

- (a) in the case of applications pursuant to section 58 of the NEB Act, issue an order, grant the application, deny the application or refer the application to a public hearing; and
- (b) in the case of applications pursuant to section 52 of the NEB Act, proceed to a public hearing.

INFORMATION TO BE FILED

REFERENCES

- |    |  |                                   |
|----|--|-----------------------------------|
| 1. | Applicant  |                                   |
| 2. | Owner(s)   |                                   |
| 3. | Operator   |                                   |
| 4. | Construction Schedule  | Guidelines                        |
| 5. | Schematic and standard drawings  | Guidelines and OPR, s. 8          |
| 6. | Technical description of the project with a list of materials including specifications (line pipe, valves, pumps, compressors, etc.) | Guidelines and OPR, Parts I & II  |
| 7. | Site plan with the description of the location of new land and land rights to be acquired  | Guidelines and NEB Act s. 86 & 87 |
| 8. | Present zoning of the preferred site and the zoning and current land use within 500 metres of any facility site or right-of-way      | Guidelines and NEB Act s. 86 & 87 |

- |     |   |                                 |
|-----|---|---------------------------------|
| 9.  | Assessment of the potential environmental effects of the project; the significance of those effects; the measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project; and a description of the condition to which the applicant intends to restore and maintain the right-of-way | Guidelines and OPR, s. 27-29    |
| 10. | Evidence that there is sufficient supply and market over a sustained period to demonstrate that the project is required by the present and future public convenience and necessity (economic justification)   | Guidelines                      |
| 11. | Cost estimate with information to justify construction of the pipeline and a statement on how the project will be financed  | Guidelines                      |
| 12. | Statement of procurement policies used to ensure that Canadian firms will be given a fair and adequate opportunity to participate in engineering, material and service supply to projects (or appropriate reference to information already on file with the Board)  | Guidelines and NEB Act s. 52(d) |

## II. Pre-Construction

Following approval of the application for construction, but prior to commencing construction, the applicant must normally provide the following additional information. Note that some of this information could be provided with the application for construction in section I above.

<u>INFORMATION TO BE FILED</u>	<u>REFERENCES</u>
13. Field Joining Program (for Board approval)	OPR, Part III
14. Construction Safety Manual (for Board approval)	OPR, s. 24-26
15. Plan, Profile (optional) and Book of Reference*	NEB Act, s. 31(c) & s. 33
16. Notice for service and publications with respect to detailed routing and land acquisition**	Guidelines, Part VIII and NEB Act, s. 34 & 85-87

\* Applicable to section 52 applications only.

\*\* Once a company has obtained authorization to build or extend a pipeline, it must comply with the requirements of the NEB Act relating to land acquisition and determination of the detailed route of the pipeline. The provisions of the NEB Act dealing with land acquisition can be found in sections 85 and following of the NEB Act. Those sections set out the specific requirements relating to the content of acquisition agreements, notification and procedures.



### III. Construction

During construction and prior to the commencement of testing a pipeline or any portion thereof, the applicant must normally provide the following information. Note that some of this information could be provided with the application for construction (Section I above) or during pre-construction (Section II above).

<u>INFORMATION TO BE FILED</u>	<u>REFERENCES</u>
17. Details of any unplanned interruptions of the operation of a utility being crossed by the pipeline under construction	OPR, s. 59
18. Application for Board's approval if the criteria for the acceptance of imperfections in field joints are different from the CSA workmanship criteria	OPR, s. 23
19. Field Testing Manual (for Board approval)	OPR, Part V
20. Description of the non-destructive examination of field joints	OPR, s. 22
21. Report on construction incidents	OPR, s. 60-63

### IV. Leave to Open

Before a pipeline is opened for operation, the Board must be satisfied that it is in such a condition that it can be operated safely. Upon application, unless the company has been exempted pursuant to section 58 of the NEB Act, the Board issues a "Leave-to-Open" Order.

<u>INFORMATION TO BE FILED</u>	<u>REFERENCES</u>
22. Leave-to-open application	Guidelines, Part IX
23. Exemption from leave to open	Guidelines, Part IX

### V. Operations and Maintenance Manual

Pipeline companies are required to have Operation and Maintenance manuals for facilities regulated by the Board. Such manuals must satisfy the requirements of sections 48-50 of the OPR and must be filed with the Board upon request. In addition, the manuals could be audited in the course of headquarter audits and facilities' inspections.

<u>INFORMATION TO BE FILED</u>	<u>REFERENCES</u>
24. Intentions and schedule for the development of Operations and Maintenance Manuals	Guidelines



## VI. Operation

For an operating pipeline, the operator shall normally provide the following information:

<u>INFORMATION TO BE FILED</u>	<u>REFERENCES</u>
25. On 31 December following the first full growing-season after the pipeline commences operation, a letter setting out a detailed list of sites not recovered to the condition intended in item 9 above, and the proposed action to be taken on those sites	OPR, s. 58
26. Application for additions to or alterations of facilities	NEB Act, s. 58
27. Incident reports	OPR, s. 60-63
28. Annually, at a date convenient to the operation of the pipeline, a list of every permission granted, during a twelve-month period, for the construction or installation of facilities across the pipeline, or a statement of no activity for the period	PCR, Part II
29. Immediate notification of:	PCR, Part II
(i) every violation of the provisions of the PCR;	
(ii) all damage to its pipeline caused by a third party;	
(iii) any excavation or construction activity by a third party considered potentially hazardous to its pipeline; and	
(iv) the suspension of permission granted by a pipeline company, pursuant to section 112 of the NEB Act and the PCR, Part I, due to unsafe construction practices.	

In addition to the foregoing information requirements for operating pipelines, companies are required to develop and implement safety training programs for employees directly involved in the operations and maintenance of pipelines and facilities. Requirements pertaining to safety training are set out in sections 56 and 57 of the OPR. Pipeline companies must also maintain records on pipeline operation. The record retention requirements are set out in Part IX of the OPR. Compliance with the safety training and record retention requirements could be verified in audits and inspections conducted by the Board.

**VI. Termination of Operations and Transfers of Assets**

INFORMATION TO BE FILED

REFERENCES

- |     |   |   |
|-----|---|---|
| 30. | Applications for deactivation for periods longer than 12 months and for reactivation  | OPR. s. 53-54   |
| 31. | Applications for abandonment  | Guidelines Part VII,<br>NEB Act s. 74 and<br>OPR. s. 55 |
| 32. | Applications to sell, purchase or lease pipelines or facilities or to enter into agreements for amalgamation with any other company | NEB Act. s. 74  |

## **GUIDELINES FOR THE REGULATION OF THE TRAFFIC, TOLLS AND TARIFFS OF GROUP 2 COMPANIES**

### **Tolls and Tariffs**

The Board regulates the traffic, tolls and tariffs of Group 2 companies on a complaint basis. Companies may only charge tolls specified in a tariff that has been filed with the Board and is in effect or that have been approved by an order of the Board. Group 2 companies are required to include in their tariffs an explanatory note which states:

"The tolls of the Company are regulated by the National Energy Board on a complaint basis. The Company is required to make copies of tariffs and supporting financial information readily available to interested persons. Persons who cannot resolve traffic, toll and tariff issues with the Company may file a complaint with the Board. In the absence of a complaint, the Board does not normally undertake a detailed examination of the Company's tolls."

Group 2 companies are not normally required to provide the detailed information to support a tariff filing specified in Part X of the Board's Guidelines. It is the responsibility of a Group 2 company to provide its shippers and interested parties with sufficient information to enable them to determine whether a complaint is warranted. Upon receipt of a written complaint, an application under Part IV of the NEB Act or on its own initiative, the Board may decide to examine a toll and to make the toll interim, pending completion of this examination. In this circumstance, the Board may request additional information including some or all of the information specified in Part X of the Guidelines.

### **Accounting Requirements and Financial Reporting**

The Board has exempted all Group 2 companies from the requirement to keep their books of account pursuant to the code of accounts prescribed in the uniform accounting regulations. The Board only requires that Group 2 companies maintain separate books of account in Canada in accordance with generally-accepted accounting principles and file audited financial statements within 120 days after the end of each fiscal year. Such statements should provide details of revenue and costs associated with the regulated pipeline. Where a Group 2 company operates a joint venture pipeline, it is required to disclose in its audited financial statements its beneficial share of revenue and costs associated with the regulated pipeline and to file a gross operating statement for the joint venture pipeline indicating whether, and if so by whom, this statement has been audited.

In some instances, the Board has granted relief from the requirement to file financial statements. These instances have primarily concerned small shipper-owned pipelines with no direct dealings with third parties. A Group 2 company may apply for similar relief explaining the particular circumstances which would justify an exemption from this requirement.

The Board has exempted Group 2 companies from the *Toll Information Regulations*. The Board does not require Group 2 companies to provide periodic financial information, such as quarterly surveillance reports, for the purpose of monitoring the financial performance of these companies. As circumstances dictate, the Board may perform an audit of a company's records.





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File: 4200-T001-10

28 December 1995

**BY FACSIMILE**

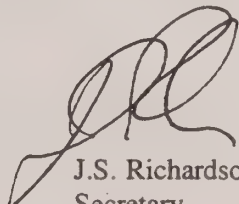
Mr. James M. Murray  
General Counsel  
Litigation & Regulatory  
TransCanada PipeLines Limited  
P.O. Box 1000, Station M  
Calgary, Alberta  
T2P 4K5

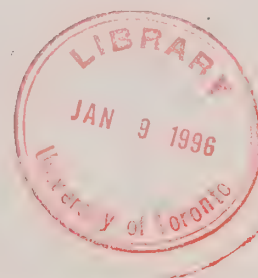
Dear Mr. Murray:

**Re: TransCanada PipeLines Limited ("TransCanada")  
Application Dated 5 July 1995 for 1996 Tolls ("RH-2-95")  
Reasons for Decision Regarding Phase 1**

The Board has completed its consideration of RH-2-95, Phase 1 matters and the request from parties for the release of an expedited decision. In response to that request, the Board has decided to issue the attached Decision with Reasons for Phase 1.

Yours truly,

  
J.S. Richardson  
Secretary



c.c.: Interested Parties to RH-2-95

Attachment



**TransCanada PipeLines Limited ("TransCanada")  
Application Dated 5 July 1995 for 1996 Tolls ("RH-2-95")  
Reasons for Decision Regarding Phase 1**

**Background**

On 5 July 1995, TransCanada PipeLines Limited ("TransCanada") filed an application pursuant to Part IV of the *National Energy Board Act* ("the Act") for new tolls to be effective 1 January 1996.

On 1 September 1995, the National Energy Board ("the Board") issued Hearing Order RH-2-95 setting down the application for a public hearing to commence on 11 December 1995. Hearing Order RH-2-95 was amended by letters dated 12 October and 7 and 16 November 1995.

On 20 October 1995, the Board approved a request by TransCanada to divide the proceeding into phases. Phase 1 would deal with issues related to cost allocation, toll design and tariff matters. Phase 2, which would begin no earlier than 29 January 1996, would deal with cost of service and other matters. TransCanada submitted that phasing would allow it sufficient time to complete settlement negotiations respecting cost of service matters.

Phase 1 of the hearing took place in Ottawa, Ontario on December 11, 12, 13 and 14, 1995.

The matters considered in Phase 1 included: tolls and tariff issues resolved by the 1996 Tolls Task Force; issues related to Firm Service Tendered ("FST") and an application for interim tolls to be effective 1 January 1996.

**The Board's Negotiated Settlement Guidelines**

In examining agreements among parties to a proceeding, the Board is guided by its *Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs*, dated 23 August 1994, and the cover letter from the Board of the same date (the "Guidelines"). Of particular relevance in these proceedings are the following extracts from those documents:

- All parties having an interest in a pipeline's traffic, tolls and tariffs should have a fair opportunity to participate and have their interests recognized and appropriately weighed in a negotiated settlement. The settlement process should be open and all interested parties should be invited to participate in the actual settlement negotiations.
- Upon filing of [information related to the resolution of individual toll design, tariff or other matters], interested parties would be provided with an opportunity to comment on each resolution. Resolutions that were not opposed by any party would normally be accepted by the Board.
- The Board confirms that, when presented with a settlement package, it will either accept or reject the package in its entirety.

## 1996 Tolls Task Force Resolutions

TransCanada's application contained twenty-one resolutions which had received either the unanimous support of the 1996 Tolls Task Force or were unopposed. Three of the proposals had received expedited consideration and approval by the Board prior to the hearing. The remaining eighteen were unopposed at the hearing.

### Decision

**The twenty-one resolutions approved by the 1996 Tolls Task Force and put forward as part of this proceeding and as described in Attachment 1, meet the Board's Guidelines. The Board has considered and approves the resolutions in full and directs that they be incorporated into TransCanada's Transportation Tariff.**

### Firm Service Tendered ("FST") Settlement Agreement

In Phase 1 of the hearing, the Board was asked by The Consumers' Gas Company Ltd. ("Consumers"), Union Gas Limited ("Union") and the Canadian Association of Petroleum Producers ("CAPP"), collectively known as the FST Parties, and TransCanada to accept the FST Settlement Agreement dated 16 November 1995 (the "FST Agreement"), to which these parties were signatories. While acknowledging that certain interested parties were excluded from participation in the process which led to the signing of the FST Agreement and thus did not meet the requirements of the Board's Guidelines, the FST Parties characterized the FST Agreement as a joint proposal and urged the Board to accept it in its "substantial entirety". The proponents of the FST Agreement noted that it had been the intention of the FST Parties and TransCanada to include other parties in the negotiations; however, due to time constraints, this had not been possible.

The Northeast Group and ProGas Limited ("ProGas") opposed the terms of the FST Agreement and urged the Board to reject it. The Northeast Group also opposed the process which resulted in the FST Agreement on the basis that, while it had a direct interest in the outcome, it had been excluded from the negotiations. Further, the Alberta Department of Energy ("ADOE"), while taking no position on the FST Agreement, urged the Board to adhere to its Guidelines.

### *Views of the Board*

In applying the Guidelines to the FST Agreement, the Board agrees that this is not an agreement within the meaning of those Guidelines. Accordingly, the Board believes that it would be inappropriate to accept or reject the FST Agreement *per se*. However, the Board can review the particular components of the FST Agreement, as it would with the common position of parties to a proceeding, to determine whether each of the components is acceptable to the Board. Based on the decisions taken by the Board, it will then be up to TransCanada and the FST Parties to determine whether the terms of their FST Agreement have been met as a whole.



The two components of the FST Agreement which address issues relevant to Phase 1 of RH-2-95 relate to the appropriate "suite of services" methodology to be used in calculating the FST Differential and the appropriateness and level of a split of the FST Differential between upstream and downstream. In respect of each of these components, the Board has examined the evidence put forward by all parties to these proceedings to determine the justness and reasonableness of each proposal proposed jointly by the FST Parties and TransCanada.

The Board also took note of the exclusion of other parties from the FST Agreement negotiations and the reasons provided for their exclusion.

### **FST Differential Methodology for 1996**

In this proceeding, TransCanada applied for a change to the existing "suite of services" methodology which was first applied to calculating the FST Differential as a result of the Board's decision in RH-3-94. The proposed "suite of services", which in TransCanada's view is a more appropriate cost-based application of the generic "suite of services" approach to calculating the FST Differential, and the existing "suite of services" are detailed below:

#### **Proposed Suite of Services\***

- |         |                 |  |
|---------|-----------------|--|
| Winter: | 50% of volumes  | • 151 days as Eastern Zone Short-Term Firm Transportation ("STFT") at the 100% load factor toll                                |
|         | 50% of volumes  | • 61 days at the 200% load factor Eastern Zone Interruptible Transportation ("IT") toll  |
|         |                 | • 90 days at the Winter Firm Service toll which is 1.4 times the Eastern Zone 100% load factor Firm Transportation ("FT") toll |
| Summer: | 100% of volumes | • 214 days at 200% load factor Eastern Zone IT toll  |

#### **Existing Suite of Services\* (as clarified in Board letter dated 23 November 1995)**

- |         |                |  |
|---------|----------------|--|
| Winter: | 50% of volumes | • 151 days as Firm Transportation ("FT") at the 100% load factor toll  |
|         | 50% of volumes | • 151 days as the minimum Temporary Winter Service ("TWS") toll        |
| Summer: | 50% of volumes | • 194 days as Firm Transportation ("FT") at the 100% load factor toll  |
|         |                | • 20 days as the minimum Eastern Zone IT toll at the 200% load factor  |
|         | 50% of volumes | • 214 days as the minimum Eastern Zone IT toll at the 200% load factor |

\* The foregoing would be modified to add one additional day to account for the leap year which occurs in 1996.

TransCanada's proposed "suite of services" is based on two criteria: the level of operating flexibility which FST provides the system; and the contracting approach which a customer would likely take in order to ensure the highest degree of probability that it would receive its volumes during the respective seasons, in the most economical fashion. In order to appropriately reflect these criteria, TransCanada has developed a proposed "suite of services" which places greater reliance on the IT toll.

TransCanada was supported by the other parties to the FST Agreement, TransCanada Gas Services Limited ("TCGS") and the Ministry of Energy and Environment for Ontario. Opposition was expressed by The Northeast Group and ProGas, who submitted that there had not been a sufficient change in circumstances to warrant review of the existing "suite of services" approach, that the FST Differential had been arrived at through negotiations and that the proposed "suite of services" injected an additional flavour of IT which did not accurately reflect the annual, seasonal and daily delivery obligations of TransCanada under FST service.

#### *Views of the Board*

The Board continues to support the use of the "suite of services" methodology in deriving the FST Differential.

The majority decision in RH-3-94 acknowledged that the "suite of services" approach, which was adopted at that time, might require reassessment in a future proceeding. Specifically, in that decision the majority stated:

"The Board recognizes that, if TransCanada or other parties believe that the value of FST service to its system is more appropriately reflected by an alternate suite of services from that proposed by CAPP or some other approach, there is an opportunity to bring forward a proposal either before the Tolls Task Force or in a future tolls application."

Upon reflection and after having experience with the "suite of services" approach, the FST Parties and TransCanada have brought forward a proposed "suite of services" for consideration by the Board. It is incumbent on those parties to satisfy the Board that the proposed "suite of services" will result in tolls that would be more just and reasonable than those which resulted from the decision of the Board in RH-3-94. As discussed above, the mere fact of agreement among some of the parties is not sufficient; each of those parties acknowledged that the negotiations of the FST Agreement involved compromises. Accordingly, the Board has carefully examined the evidence to determine whether the proposed "suite of services" is a better surrogate for the value of FST service than that approved in the RH-3-94 decision. No other alternatives were put forward for consideration by the Board.

The level of the FST Differential for 1995 which was calculated from the existing "suite of services" resulted in a decision by Consumers and Union to opt to convert FST volumes to FT volumes. This decision to convert the FST volumes to FT volumes is strong evidence, in the Board's view, that under the existing "suite of services", FST service is overpriced and, therefore, inappropriate.

The main difference between the proposed "suite of services" and the existing "suite of services" is the greater reliance on the IT toll. While certain assumptions made by TransCanada regarding the availability of IT and shipper behaviour may not be totally accurate, the Board is persuaded that, on

balance, the proposed "suite of services" is a better proxy for the flexibility required by TransCanada and the surety of transportation service required by the customer.

### **Decision**

**The Board approves TransCanada's proposed "suite of services" proposal to calculate the FST Differential and the FST toll for the 1996 test-year.**

### **FST Differential Split**

Under the terms of the FST Agreement, it is proposed that an upstream and a downstream component to the FST Differential be designated for 1996. The allocation of the FST Differential was negotiated to be 4 cents/GJ to the upstream and 21 cents/GJ to the downstream, based on a 25 cents/GJ FST unit differential. In addition, it was agreed that, after TransCanada had applied an appropriate "suite of services" approach and calculated an actual FST Differential, any difference between the calculated FST differential and the agreed-to 25 cents/GJ FST Differential would be applied equally (i.e. 50/50) to the upstream and downstream components.

Under the "avoided cost" methodology used prior to the Board's decision in RH-3-94, the FST Differential was designated between upstream and downstream components. Under that methodology, the split, which was first introduced in RH-1-88, Phase 2, was a recognition by the Board that both upstream suppliers and downstream shippers/users contributed to the flexibility and other benefits afforded by FST service. Certain parties, TCGS [formerly known as Western Gas Marketing Limited ("WGML")], Consumers and Union, in placing reliance on that split, included in their gas sales contracts a pass-through of the upstream component of the FST Differential to TCGS. The non-identification by the Board of a split of the FST Differential in its RH-3-94 decision has created contractual uncertainty among the parties to those contracts.

Parties supporting the allocation of the FST Differential between upstream and downstream components, although acknowledging that the split was a negotiated element of the FST Agreement, argued for the inclusion in the Board's decision of an approval of the split for the following reasons:

- It would assist parties to achieve their expectations under the contracts since the gas supply contracts contemplate cost sharing on the basis of a split of the FST Differential.
- It would recognize that the upstream component is an element of the value captured in the price for FST service.
- It would be consistent with the decision in RH-1-88, Phase 2, which recognized the appropriateness of an upstream component of the FST Differential.
- Non-FST tollpayers are unaffected by any splitting of the FST Differential between upstream and downstream components.



The parties who opposed the approval of the split argued that it was not required for toll-setting purposes, that it is only required to resolve a private contractual dispute and that the determination of the split was not an independent valuation of the components but was subject to private negotiations.

### *Views of the Board*

The Board must first decide whether approval of a split of the FST Differential between upstream and downstream is within its jurisdiction. In that regard, the Board notes that its jurisdiction in respect of traffic, tolls and tariffs, as set out in Section 59 of the Act, is very broad and extends beyond the mere setting of tolls. The Board's decisions may properly affect private contractual rights provided that the impacts on contract arrangements are incidental to the Board's exercise of its regulatory powers. As discussed below, an element of the FST Differential is the value to the TransCanada system of the flexibility provided both upstream and downstream by FST. In these circumstances, the Board is satisfied that an identification and approval of an FST Differential split is a matter related to TransCanada's system flexibility and, thus, to traffic, tolls and tariffs. Therefore, after reviewing the arguments presented by parties on this point, the Board has concluded that an approval of the FST Differential split is within its jurisdiction.

Secondly, the Board must be satisfied that a recognition of the split, as put forward by TransCanada, is also appropriate. In that regard, the Board notes that:

- Parties to the FST gas supply contracts entered into those contracts, in part, in reliance on a pass-through of the split as set out in the then-existing FST methodology.
- The allocation is intended to recognize that the operating flexibility provided by FST is due to the ability of both suppliers and the FST shippers to accommodate the service characteristics of FST.
- Parties supporting the FST Differential split have asked for the approval of the split as a transitional measure to facilitate contractual matters and to encourage a positive and cooperative approach to the upcoming consultative process for addressing FST conversion issues.
- The "suite of services" methodology does not, in and of itself, require or produce a split of the FST Differential.
- While there is no direct evidence on the record which could lead to an objective calculation of a split of the FST Differential, all parties directly affected by the FST Differential split in this proceeding have agreed to the value of each of the upstream and downstream components.

### **Decision**

**The Board also approves, as a transitional measure, the allocation of the FST Differential between upstream and downstream components as per the terms of the FST Agreement for the 1996 test-year.**



## **Process to Address FST Conversion Issues**

The Board's 12 October 1995 amendment to Hearing Order RH-2-95 identified Issue 3 b) as the toll and tariff impact of conversion from FST to FT. It was evident during the hearing that, at this time, parties were of the view that this issue related to an upcoming process wherein the views of all parties would be sought with respect to determining the ways and means by which TransCanada might be able to maintain a suitable level of flexibility once existing levels of FST had been converted to FT.

Within the text of the FST Agreement, it was noted that TransCanada and the FST Parties would co-operate and work together in an FST Study in order to implement a consultative process, involving a broad base of TransCanada's shippers and other stakeholders. This FST Study would examine and eventually could determine the ways and means whereby TransCanada could maintain and possibly enhance, on a long-term basis, the operating flexibility that is currently provided by the service characteristics of FST, including the classes of transportation services that would achieve this end and the corresponding service characteristics and toll-making methodologies.

In final argument, TransCanada indicated that such an examination to effect the conversion would be broad in scope and a fully-open process. TransCanada indicated that the intent of this broad and open approach is to recognize and address as many concerns as may be raised by different stakeholders and that the objective of the discussions will be to identify the optimum scenario which considers both the economic and operational aspects of the conversion.

TransCanada also indicated that it supports the proposal made by The Northeast Group regarding an overall review of alternate firm transportation services and that this proposal would be addressed, as part of the FST Study in 1996, by all participants in the 1997 Tolls Task Force.

TransCanada further stated that the results and conclusions from all discussions and analyses in the consultative process will be included in the comprehensive FST Study. This Study will be filed with the Board when TransCanada ultimately seeks approval from the Board to effect the conversion of FST to FT.

### *Views of the Board*

In the Board's view, the comprehensive nature of the Study and the consultative process to be used by TransCanada should address the concerns of all stakeholders to RH-2-95 including those of The Northeast Group and ProGas.

### **Decision**

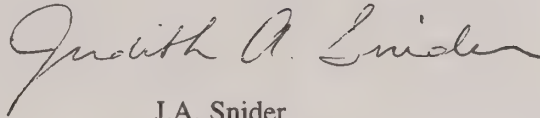
**The Board does not consider it necessary to issue specific directions in this area at this time.**

## **Interim Toll Request**

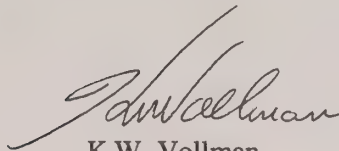
By letter dated 6 December 1995, TransCanada applied, pursuant to Sections 19(2), 59 and 64 of the Act, for an Order establishing interim tolls effective 1 January 1996. The attached Order TGI-3-95 establishes revised interim tolls effective 1 January 1996 to reflect the approval of the proposed "suite of services" in this Decision as well as to reflect the change in TransCanada's approved rate of return on common equity in accordance with the Board's letter dated 6 December 1995. Order TGI-1-95 is not revoked and continues to apply for the 1995 test-year pending final disposition by the Board of the issue before it re: RH-3-94 on FST. TransCanada will be required to file all affected schedules and revised tolls in compliance with the Phase 1 decisions and the approved rate of return on common equity for 1996.

**Disposition**

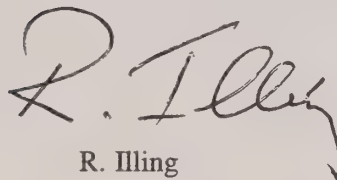
The foregoing together with Order No. TGI-3-95 constitute our Decision and Reasons for Decision on this matter.



J.A. Snider  
Presiding Member



K.W. Vollman  
Member



R. Illing  
Member

Calgary, Alberta  
December 1995





### **1996 Tolls Task Force Resolutions**

#### **Resolution 96-1     Tariff Amendment - Sales Meter Stations Charges**

The General Terms and Conditions ("GTC"), Section VII will be amended to lower the threshold volume to which additional charges apply to  $100 \times 10^3 \text{m}^3$  from  $1\,250 \times 10^3 \text{m}^3$  for sales meter stations regardless of when the meter station was put into service.

#### **Resolution 96-2     Tariff Amendment - FST Curtailment Responsibilities**

The FST Toll Schedules will be amended to clarify the wording of the GTC - Section XV such that an FST Shipper is not obligated to accept a Revised Tender unless that Revised Tender is a curtailment.

#### **Resolution 96-3     IT Toll Design Review**

The IT Toll Design will remain in effect for the 1996 test-year as agreed upon in Resolution 95-1 by the 1995 Tolls Task Force and as approved by the Board in RH-3-94 with the exception of those changes to the IT Bidding Ceiling and the method of determining the applicable nominated toll level as described in Resolution 96-14. It was further agreed that this issue would be revisited by the 1997 Tolls Task Force.

#### **Resolution 96-4     Tariff Amendment - Imbalances Held at Primary Receipt Points**

The GTC, Section II - "APPLICABILITY AND CHARACTER OF SERVICE" and Section XXII - "NOMINATIONS AND UNAUTHORIZED VOLUMES" will be amended such that imbalances will be deemed to have occurred and shall be held at the primary receipt point for the purposes of paying back recorded imbalances.

#### **Resolution 96-5     Tariff Amendment - Nomination Time Change**

The nomination time will remain in effect as agreed in Resolution 95-14 by the 1995 Tolls Task Force, and as approved by the Board in RH-3-94, for the 1996 test-year. It was agreed that this issue would be reviewed by the 1997 Tolls Task Force.

#### **Resolution 96-6     Tariff Amendment - IT Nominating Discipline**

In an Application dated 23 August 1995, TransCanada requested that the Board approve the Tariff Amendments to the IT Nominating Discipline that were agreed upon by the Tolls Task Force members. In a letter dated 21 September 1995, the Board approved the applied-for tariff amendments. This issue is to be reviewed by the 1998 Tolls Task Force.

**Resolution 96-7     Tariff Amendment - IT Bidding Process**

In an Application dated 23 August 1995, TransCanada requested that the Board approve the Tariff Amendments to the IT Bidding Process that were agreed upon by the Tolls Task Force. In a letter dated 21 September 1995, the Board approved the applied-for tariff amendments.

**Resolution 96-8     TransGas Tolling**

The toll design for TransGas will be modified effective 1 January 1996 under which TransGas tolls will be based on the distance from weighted average receipt points to weighted average delivery points in either the Saskatchewan Zone or under the Intra-Saskatchewan contract.

**Resolution 96-9     Tariff Amendment - Contract Pressure**

The GTC, Section XII - "DELIVERY PRESSURE" will be amended to relieve TransCanada of the responsibility to maintain contract delivery pressure at times, such as during peak loads, when the delivery pressure falls despite reasonable preventative measures taken by TransCanada's to maintain it.

**Resolution 96-10     Tariff Amendment - STS Service Classification**

The GTC, Section XV - "IMPAIRED DELIVERIES" will be amended to reflect changes to the order of priority of both daily and seasonal curtailments of STS. This issue is to be reviewed by the 1997 Tolls Task Force.

**Resolution 96-11     Expedited Processing of Resolutions 96-6 and 96-7**

It was resolved that TransCanada would file an application with the Board requesting expedited processing of Resolutions 96-6 and 96-7.

**Resolution 96-12     Winter Firm Service (WFS) Price Cap**

In its applications dated 5 and 10 July 1995, TransCanada requested Board approval of deviations from TransCanada's Transportation Tariff as it applies to Winter Firm Service for the bid period covering the 1995/96 winter season. In letters dated 7 and 11 July 1995, the Board approved Resolution 96-12 in its entirety.

**Resolution 96-13     Temporary Winter Service (TWS) Price Cap**

The Tolls Task Force agreed to amend the TWS toll schedule to reflect changes to the TWS price cap and the length of service entitlement for the bid period covering service for the 1995/96 winter season.

**Resolution 96-14 IT Service Bidding**

The IT Toll Schedule will be amended to change the criteria for the determination of a successful IT bid to the basis of the maximization of financial benefit to the system. For the 1996 test-year, the ceiling for bids east of the Manitoba Delivery Area ("MDA") will be at the 50% load factor of the Phillipsburg toll. The ceiling for bids from Empress to and including all of the MDA and south to Emerson ("the West") will be at the 50% load factor level of the Phillipsburg toll less the East/West Differential. The IT Service Bidding floors will remain at the 200% load factor level for each domestic toll zone and export point. Nominations are to be evaluated on a maximum net revenue basis. The East/West Differential will be added to each bid from the West for the purpose of assessing financial benefit to the system.

**Resolution 96-15 Appropriateness of Basing Other Tolls on the FST Downstream Differential**

As a result of the approval of the "suite of services" approach in RH-3-94, there is no longer the identification of an upstream and downstream component of the FST Differential. Consequently, the derivation of certain tolls (i.e. PS, WFS and TWS) which previously relied upon the specification of a downstream differential were required to be changed for 1996. This Resolution is intended only as a temporary measure pending potential resolution by the 1997 Tolls Task Force.

**Resolution 96-16 General Terms and Conditions Update**

Amendments to various sections of TransCanada's GTC will be made to reflect several new services approved in RH-3-94: Long-term Winter Firm Service (LT-WFS), Enhanced Capacity Release Service (ECR) and Firm Backhaul Transportation Service.

**Resolution 96-17 Tariff Update re: "TransCend"**

Amendments to the GTC will be made to remove all references to the word "TransCend".

**Resolution 96-18 Tariff Amendment - Billings and Payments**

Amendments to the GTC will be made so that the billing date for all shippers will be the 10th of each month and the invoice payment date will be the 20th of each month. All export customers will continue to pay on the 25th of each month until expiration of each shipper's export contract. The payment date for all renewals and new export contracts will reflect a payment date of the 20th of the month.

**Resolution 96-19    Diversion Policy Adjustment**

The GTC, Section XV - "IMPAIRED DELIVERIES" will be amended to give the diversion of gas away from firm contractual delivery points, which are downstream of the system restriction, priority over the diversion of gas away from firm contractual delivery points which are not downstream of the system restriction.

**Resolution 96-20    Single Handshakes**

Single Handshakes will be incorporated into TransCanada's Transportation Tariff to provide shippers and gas suppliers assurances of service. This will also enable TransCanada to avoid operational imbalances in excess of a certain level by nominating against Handshake Account Holders where parties have not honoured their Handshake arrangements.

**Resolution 96-21    Tariff Update re: "ISW-1"**

The GTC, Section XVI - "DETERMINATION OF DAILY DELIVERIES" will be amended to update references to "ISW-1" to read "Maximum IT Toll between those two points or areas... " to reflect the removal of the IT tiers.



**ORDER TGI-3-95**

IN THE MATTER OF the *National Energy Board Act*  
("the Act") and the Regulations made thereunder; and

IN THE MATTER OF a request dated 6 December 1995  
by TransCanada PipeLines Limited ("TransCanada")  
requesting the Board to issue an Order establishing interim  
tolls effective 1 January 1996.

BEFORE the Board on 21 December 1995.

WHEREAS the Board has received a request from TransCanada, dated 6 December 1995, pursuant to Sections 19(2), 59 and 64 of the Act, for an Order establishing interim tolls effective 1 January 1996;

IT IS ORDERED, Pursuant to Sections 19(2), 59 and 64 of the Act that:

1. Effective 1 January 1996, TransCanada's current interim tolls pursuant to TGI-1-95 shall be revised by Order TGI-3-95 to reflect the approval of the proposed "suite of services" as set out in the Phase 1 Decision for RH-2-95 as well as the change in TransCanada's approved rate of return on common equity in accordance with the Board's letter dated 6 December 1995; and
2. TransCanada is directed to file with the Board and serve copies on parties to RH-2-95 and its shippers forthwith all schedules and resulting tolls reflecting this decision.

NATIONAL ENERGY BOARD

J.S. Richardson  
Secretary





National Energy Board

Office national de l'énergie

CAI  
MT76  
-N53

File No. 7500-3

15 January 1996

To: **ALL INTERESTED PARTIES**

Re: **REVISED PART VI REGULATIONS**



On 24 February 1995, the Board issued revised *National Energy Board Part VI Regulations, 1995* ("the Regulations") including the *National Energy Board Export and Import Reporting Regulations* ("Reporting Regulations"). The Regulations were prepublished in the *Canada Gazette*, Part I on 6 May 1995. Interested Parties were asked to provide comments by 5 June 1995.

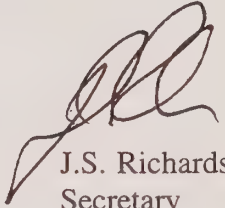
Since only minor amendments were required to be made to the Reporting Regulations, it was subsequently decided that they should be separated from the process. The Reporting Regulations were promulgated on 13 December 1995.

A number of comments on the Regulations were received from Interested Parties. The Board considered these comments and modified, in part, the originally proposed amendments. The revised Regulations, referred to as *The National Energy Board Part VI (Oil and Gas) Regulations*, were re-published in Part I of the *Canada Gazette* on 13 January 1996 for an additional 30-day comment period. Concurrently, the Board has decided to send the revised amendments to parties on the mailing lists for Oil and Gas matters.

The major amendments to the Regulations are in the area of gas supply information. The Board has decided to reduce the level of supply information required to be filed in support of an export licence application. Also, the requirement to file changes to gas supply arrangements supporting an approved export licence, as was found in the 6 May 1995 version of the Regulations, has been removed.

Parties wishing to comment on the Regulations should file 20 copies with the Board by 14 February 1996.

Copies of the Regulations (in both English and French) may be obtained by telephoning the Board's Regulatory Support Office at (403) 292-4800. For further information about the Regulations or the procedure for this review, please contact Gordon Nettleton, Legal Counsel (403) 299-2703, Cliff Brown, Manager, Gas Export Division, Energy Commodities Branch (403) 299-3190, or Paul Bourgeois, Manager, Natural Gas Supply Division, Energy Resources Branch (403) 299-3149.



J.S. Richardson  
Secretary

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REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF DIVISION I  
OF PART VI OF THE NATIONAL ENERGY BOARD ACT

SHORT TITLE

1. These Regulations may be cited as the *National Energy Board Act Part VI (Oil and Gas) Regulations*.

INTERPRETATION

2. In these Regulations,

"Act" means the *National Energy Board Act*; (*Loi*)

"heavy crude oil" means a substance that has a density greater than 875.7 kg/m<sup>3</sup> and is

(a) oil, other than refined petroleum products,

(b) a blend of oils, other than refined petroleum products,  
or

(c) a blend of oils, other than refined petroleum products,  
with refined petroleum products; (*pétrole brut lourd*)

"licence" means a licence for the exportation or importation of  
oil or gas issued under Part VI of the Act; (*licence*)

"order" means an order authorizing the exportation, importation,  
exportation for subsequent importation or importation for  
subsequent exportation of gas or authorizing the exportation of  
oil that is issued by the Board under these Regulations;  
(*ordonnance*)

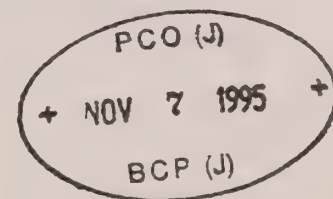
"refined petroleum products" means

(a) oil recovered by the processing of oil sands,

(b) gasoline-type fuels for use in internal combustion  
engines,

(c) oil for use as a component in the blending of gasoline-  
type fuels referred to in paragraph (b),

(d) middle distillates, including the products commercially  
known as kerosene, stove oil, diesel fuel, furnace oil,  
diesel oil, gas oil, distillate heating oil, engine  
distillates and Nos. 1, 2 and 3 fuel oils,



(e) heavy fuel oils, including Nos. 4, 5 and 6 fuel oils, bunker "C" oil, "C" grade oil, residual fuel oil, heavy bunker oil, intermediate and thin bunker fuels and any blend of heavy fuel oils, and

(f) partially processed oil, whether commingled with crude oil or equivalent hydrocarbons or not. (*produits pétroliers raffinés*)

## PART I

### GENERAL

#### *Procedures for Applying For and Issuing Licences and Orders*

3. In addition to the requirements of these Regulations, Part I of the *National Energy Board Rules of Practice and Procedure, 1995* applies in respect of the procedures to be followed in applying for and issuing a licence or an order.

#### *Approval of Licences*

4. The approval of the Governor in Council is required prior to the issuance of a licence for

- (a) the exportation of gas;
- (b) the importation of gas;
- (c) the exportation of heavy crude oil; or
- (d) the exportation of oil other than heavy crude oil.

#### *Conditions of Orders*

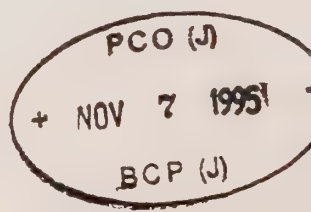
5. Every order is subject to the condition that the holder of the order must comply with

- (a) the provisions of the Act and the regulations in force at the date of the issuing of the order and as subsequently enacted, made or amended; and
- (b) every order made under the authority of the Act.

#### *Suspension and Revocation of Orders*

6. (1) Subject to subsection (2), the Board may

- (a) suspend an order if any term or condition of the order has not been complied with or has been contravened; or



(b) revoke an order if the holder of the order refuses to comply with any term or condition of the order, or does not comply with any conditions imposed for the lifting of a suspension.

(2) Before suspending or revoking an order, the Board shall send a notice to the holder of the order setting out the term or condition of the order that it is alleged the holder has not complied with, has contravened or has refused to comply with, and shall afford the person an opportunity to be heard.

(3) Notwithstanding subsections (1) and (2), the Board may suspend or revoke an order on the application or with the consent of the holder of the order.

### *Inspections*

7. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in order to carry out an inspection in connection with the exportation or importation of oil or gas, at any reasonable time

(a) enter any premises in which oil or gas is produced or recovered for export from Canada, is exported from Canada or is imported into Canada, or any place of business related to such production or recovery;

(b) inspect any instruments, devices, plant, equipment, books, records or accounts or any other thing used for or in connection with the exportation or importation of oil or gas; and

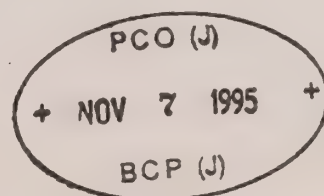
(c) conduct any tests that are necessary in order to carry out the inspection.

(2) A person authorized by the Board to exercise the powers referred to in subsection (1) shall produce the authorization, when requested to do so during the exercise of those powers.

(3) Every person who is the operator of or in charge of any premises or any thing referred to in subsection (1) shall permit a member of the Board or a person authorized by the Board to exercise the powers referred to in that subsection and shall assist the member or person in exercising those powers.

### *Units of Measurement*

8. (1) For the purposes of these Regulations, all gas shall be measured in units of measurement that meet the requirements of the *Electricity and Gas Inspection Act*, and



(a) in the case of volume measurement, shall be expressed as the number of cubic metres the gas would occupy at standard conditions, namely, at a temperature of 15°C and at an absolute pressure of 101.325 kPa; and

(b) in the case of thermal measurement, shall be computed as the number of joules on a dry basis where dry gas has a moisture content of less than 110 mg/m<sup>3</sup>.

(2) Where volume is measured under conditions of temperature and pressure other than the standard conditions described in paragraph (1) (a), the volume shall be converted to the equivalent under the standard conditions, in accordance with the Ideal Gas Laws, and shall be corrected for deviations from the Ideal Gas Laws in accordance with subsection (3), where the amount of the deviation exceeds one per cent.

(3) Correction for deviation from the Ideal Gas Laws shall be based on the tables published in American Gas Association (AGA) Report No. 3, *Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids*, as amended from time to time.

(4) Notwithstanding subsections (1) to (3), propane, butanes and ethane may be measured in liquid form, in which case the volume measurement shall be computed in cubic metres.

9. For the purposes of these Regulations, the units of measurement of liquids, other than liquids determined by the Board to be cryogenic liquids, shall be computed at a temperature of 15°C.

## PART II

### GAS

#### DIVISION I

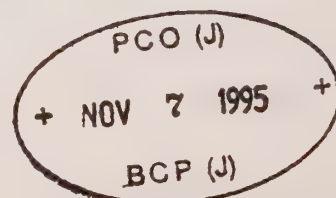
##### GAS OTHER THAN PROPANE, BUTANES AND ETHANE

#### Application

10. This Division applies to gas other than propane, butanes and ethane.

#### Exemption

11. Ethylene and propylene are exempt from the operation of Part VI of the Act.





Information to be Furnished by Applicants for Licences for  
Exportation

12. An applicant for a licence for the exportation of gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

(a) the terms that the applicant is requesting for the licence, including

(i) the duration of the licence,

(ii) the maximum daily, annual and term quantities of gas proposed to be exported,

(iii) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions, and

(iv) the points of exportation of the gas from Canada;

(b) information respecting the applicant's gas supply supporting the proposed exportation, whether contractually dedicated or undedicated, including

(i) a summary of the quantities of gas under contract to or owned by the applicant, including daily and annual volumes, reserves and the termination date of every such contract, and

(ii) a copy of each pro forma contract for each type of gas purchase contract;

(c) information respecting the applicant's gas market, including

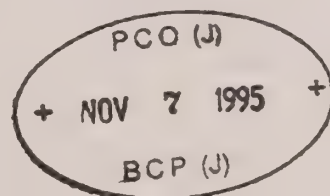
(i) details of the applicant's gas export sale, including

(A) a copy of every gas export sales contract for the proposed exportation,

(B) a detailed summary of the terms and conditions of every such contract, including the details of the matters referred to in Schedule I, substantially in the form set out therein, and

(C) the name of a person to whom questions respecting the details of every such contract may be directed, and

(ii) a description of the export market to be served by the proposed exportation;



(d) where the gas proposed to be exported is from a gas supply other than a contractually dedicated pool, field or area, a gas supply and demand balance for the reserves supporting the application, on both an aggregate and an annual basis for the duration of the proposed exportation, identifying all firm contractual commitments supported by those reserves;

(e) details of the transportation arrangements pertaining to the proposed exportation, including

(i) the details and status of all contractual arrangements for the movement of the gas in and outside Canada,

(ii) a copy of every transportation contract for the movement of the gas in Canada, and

(iii) a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the gas to market;

(f) information respecting the potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects;

(g) an assessment of the impact of the proposed exportation on Canadian energy and natural gas markets to determine whether Canadians are likely to have difficulty in meeting their energy requirements at fair market prices;

(h) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to

(i) the removal of gas from a province,

(ii) the importation of gas into the country of destination,

(iii) transportation services,

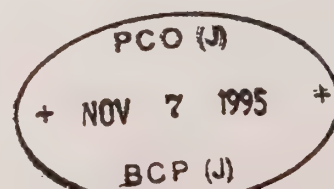
(iv) tariffs and tolls,

(v) facilities,

(vi) environmental reviews, and

(vii) contractual arrangements necessary for the exportation of gas; and

(i) a status sheet summarizing the contractual arrangements and regulatory approvals and authorizations, substantially in the form set out in Schedule II.



Information to be Furnished by Applicants for Licences for  
Importation

13. An applicant for a licence for the importation of gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

(a) the terms that the applicant is requesting for the licence, including

(i) the duration of the licence,

(ii) the maximum daily, annual and term quantities of gas proposed to be imported,

(iii) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions, and

(iv) the points of importation of the gas into Canada;

(b) information respecting the applicant's gas supply supporting the proposed importation, including

(i) a summary of the quantities of gas under every gas purchase contract, including daily and annual volumes, reserves and the termination date of every such contract, and

(ii) a copy of each pro forma contract for each type of gas purchase contract;

(c) information respecting the applicant's gas market, including

(i) details of the applicant's gas import purchase, including

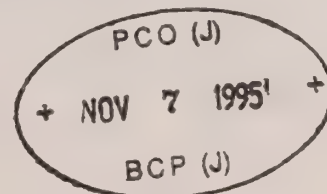
(A) a copy of every gas import purchase contract for the proposed importation, and

(B) a detailed summary of the terms and conditions of every such contract, and

(ii) a description of the market to be served by the proposed importation;

(d) details of the transportation arrangements pertaining to the proposed importation, including

(i) the details and status of all contractual arrangements for the movement of the gas in and outside Canada,



(ii) a copy of every transportation contract for the movement of the gas in Canada, and

(iii) a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the gas to market;

(e) information respecting the potential environmental effects of the proposed importation and any social effects that would be directly related to those environmental effects; and

(f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to

(i) the removal of gas from the country of production,

(ii) the importation of gas into a province,

(iii) transportation services,

(iv) tariffs and tolls,

(v) facilities,

(vi) environmental reviews, and

(vii) contractual arrangements necessary for the importation of gas.

#### Terms and Conditions of Licences for Exportation and Importation

14. The following terms and conditions may be included in any licence for the exportation or importation of gas:

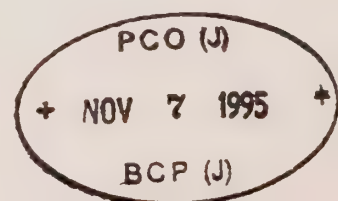
(a) the duration of the licence;

(b) the period within which the exportation or importation of the gas must commence in order for the licence to remain in effect;

(c) the term quantities of gas that may be exported or imported;

(d) the maximum quantities of gas that may be exported or imported, for any daily, monthly, annual or other appropriate period;

(e) if applicable, any tolerance levels that are necessary to accommodate temporary operating conditions;





(f) the points of exportation of the gas from Canada or of importation of the gas into Canada; and

(g) the environmental requirements that must be met for the licence to take or remain in effect.

#### Orders for Exportation or Importation

15. Where the Board determines that an application for an order for the exportation or importation of gas contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person

(a) to export gas

(i) for a period not exceeding two years, or

(ii) for a period exceeding two years but not exceeding 20 years, in quantities of not more than 30,000 m<sup>3</sup> per day;

(b) to import gas

(i) for a period not exceeding two years, or

(ii) for a period exceeding two years but not exceeding 20 years, in quantities of not more than 30,000 m<sup>3</sup> per day; or

(c) to export gas for subsequent import or to import gas for subsequent export for a period not exceeding 25 years.

#### Terms and Conditions of Orders for Exportation or Importation

16. The following terms and conditions may be included in any order issued under section 15:

(a) the duration of the order;

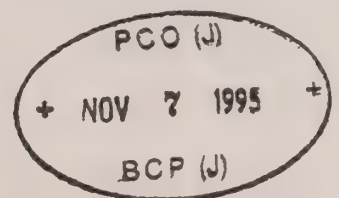
(b) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions;

(c) the requirement that the holder of the order must file with the Board, within a specified period, evidence of each approval or authorization of a federal, provincial or state government pertaining to

(i) the removal of gas from a province or the country of production,

(ii) the importation of gas into the country of destination or into a province,

(iii) transportation services,



- (iv) tariffs and tolls,
  - (v) facilities,
  - (vi) environmental reviews, and
  - (vii) contractual arrangements necessary for the exportation or importation of gas;
- (d) where the order authorizes the exportation of gas,
- (i) the maximum daily, monthly, annual and term quantities of gas that may be exported,
  - (ii) the points of exportation of the gas from Canada,
  - (iii) the period within which the exportation of gas must commence in order for the order to remain in effect, and
  - (iv) the exportation of gas on a firm or interruptible basis;
- (e) where the order authorizes the importation of gas,
- (i) the maximum daily, monthly, annual and term quantities of gas that may be imported,
  - (ii) the points of importation of the gas into Canada,
  - (iii) the period within which the importation of gas must commence in order for the order to remain in effect, and
  - (iv) the importation of gas on a firm or interruptible basis;
- (f) where the order authorizes the exportation of gas for subsequent importation,
- (i) the maximum daily, monthly, annual and term quantities of gas that may be exported and subsequently imported,
  - (ii) the points of exportation and subsequent importation of gas,
  - (iii) the period within which the exportation and subsequent importation of gas must commence in order for the order to remain in effect,
  - (iv) the exportation and subsequent importation of gas on a firm or interruptible basis,
  - (v) the balancing of quantities to be exported and subsequently imported on a thermally equivalent basis, and

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(vi) the injection, storage and withdrawal of gas from storage facilities;

(g) where the order authorizes the importation of gas for subsequent exportation,

(i) the maximum daily, monthly, annual and term quantities of gas that may be imported and subsequently exported,

(ii) the points of importation and subsequent exportation of gas,

(iii) the period within which the importation and subsequent exportation of gas must commence in order for the order to remain in effect,

(iv) the importation and subsequent exportation of gas on a firm or interruptible basis,

(v) the balancing of quantities to be imported and subsequently exported on a thermally equivalent basis, and

(vi) the injection, storage and withdrawal of gas from storage facilities; and

(h) the environmental requirements that must be met for the order to take or remain in effect.

#### Amendments to Gas Export Sales Contracts and Gas Import Purchase Contracts

17. (1) In this section,

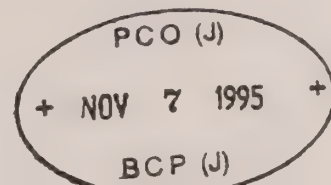
"gas export sales contract" means a contract, other than a third party contract, for the sale of gas between

(a) the holder of a licence and the importer,

(b) the holder of a licence and the vendor, where the holder or an affiliate or subsidiary of the holder is also the importer, or

(c) the holder of a licence and the importer and between the holder and the vendor, where the holder is an affiliate or subsidiary of the importer and of the vendor; (*contrat de vente de gaz à l'exportation*)

"holder of a licence" means the person who holds a licence for the exportation of gas; (*titulaire d'une licence*)



"importer" means the importer of gas in the country of destination of the gas; (*importateur*)

"third party contract" means a contract for the sale of gas contracted, under a gas export sales contract to a third party, by the holder of a licence or the importer of the gas, where

(a) the sale to the third party is for a term of less than two years,

(b) the importer is physically unable to take the gas for its market, and

(c) the gas export sales contract contains provisions allowing for the sale of the gas to a third party; (*contrat avec un tiers*)

"vendor" means the person from whom gas is purchased. (*vendeur*)

(2) Unless otherwise authorized by the Board, the holder of a licence shall, within 30 days after execution, file with the Board a copy of every gas export sales contract pertaining to the exportation of gas authorized by the licence and of every amendment, agreement or change pertaining thereto.

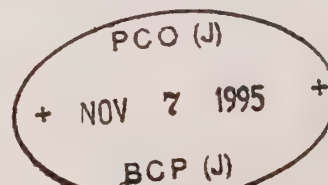
(3) The holder of a licence shall include with the copy filed pursuant to subsection (2) a detailed summary of every gas export sales contract and of every amendment, agreement or change pertaining thereto.

(4) The holder of a licence shall not export or cause or permit the exportation of gas under the licence, pursuant to or in accordance with any gas export sales contract, or any amendment, agreement or change pertaining thereto, unless that contract, amendment, agreement or change has been approved by the Board in accordance with subsection (5).

(5) The Board may approve a contract, amendment, agreement or change where the Board determines that gas will continue to be exported under the licence.

(6) On request of the Board, the holder of a licence shall file with the Board, within 30 days after execution, a copy of every contract, other than a gas export sales contract, pertaining to the exportation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(7) The holder of a licence shall, within 30 days after execution, file with the Board a copy of every third party contract pertaining to the exportation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.





18. (1) In this section,

"exporter" means the exporter of gas in the country of production of the gas; (*exportateur*)

"gas import purchase contract" means a contract, other than a third party contract, for the purchase of gas between

(a) the holder of a licence and the exporter, or

(b) the holder of a licence and the resale customer in Canada, where the holder or an affiliate or subsidiary of the holder is also the exporter; (*contrat d'achat de gaz d'importation*)

"holder of a licence" means the person who holds a licence for the importation of gas; (*titulaire d'une licence*)

"third party contract" means a contract for the sale of gas contracted, under a gas import purchase contract to a third party, by the holder of the licence or by the exporter of the gas, where

(a) the sale to the third party is for a term of less than two years,

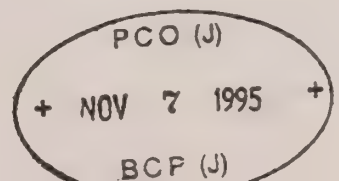
(b) the holder of the licence is physically unable to take the gas for its market, and

(c) the gas import purchase contract contains provisions allowing for the sale of the gas to a third party. (*contrat avec un tiers*)

(2) Unless otherwise authorized by the Board, the holder of a licence shall, within 30 days after execution, file with the Board a copy of every gas import purchase contract pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(3) The holder of a licence shall include with the copy filed pursuant to subsection (2), a detailed summary of every gas import purchase contract and of every amendment, agreement or change pertaining thereto.

(4) The holder of a licence shall not import or cause or permit the importation of gas under the licence, pursuant to or in accordance with any gas import purchase contract, or any amendment, agreement or change pertaining thereto, unless that contract, amendment, agreement or change has been approved by the Board in accordance with subsection (5).



(5) The Board may approve a contract, amendment, agreement or change where the Board determines that gas will continue to be imported under the licence.

(6) On request of the Board, the holder of a licence shall file with the Board, within 30 days after execution, a copy of every contract, other than a gas import purchase contract, pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(7) The holder of a licence shall, within 30 days after execution, file with the Board a copy of every third party contract pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

## DIVISION II

### PROPANE, BUTANES AND ETHANE

#### Exemption

19. The following transactions are exempt from the operation of Part VI of the Act:

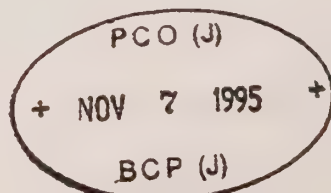
- (a) the importation of any propane, butanes or ethane;
- (b) the exportation of any propane, butanes or ethane, where
  - (i) the exportation is for subsequent import, or
  - (ii) the propane, butanes or ethane have previously been imported into Canada; and
- (c) the exportation of any propane where the propane is carried by motor vehicle in their own tanks for their consumption.

#### Information to be Furnished by Applicants for Licences for Exportation

20. An applicant for a licence for the exportation of propane, butanes or ethane shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

(a) the terms that the applicant is requesting for the licence, including

- (i) the duration of the licence,



(ii) the maximum daily, monthly, annual and term quantities of propane, butanes or ethane proposed to be exported and the average heating values of those quantities, and

(iii) the points of exportation of the propane, butanes or ethane from Canada;

(b) information respecting the applicant's propane, butanes or ethane supply supporting the proposed exportation, including

(i) a summary of the quantities of propane, butanes or ethane under contract and the average heating values of those quantities,

(ii) a copy of every propane, butanes or ethane supply contract supporting the proposed exportation,

(iii) the name and location of each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant, details of the applicant's contracted or working interest therein and the name and location of the plant where propane, butanes or ethane are being produced,

(iv) an estimate of the gas reserves and the volume of extractable propane, butanes or ethane in each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant,

(v) supporting data for each estimate referred to in subparagraph (iv),

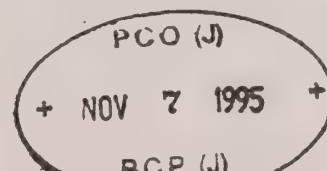
(vi) basic gas deliverability data for each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant,

(vii) a table showing total productive capacity, constrained only by existing and anticipated surface facilities, and

(viii) a table showing the ways in which the applicant plans to produce gas from each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant, in order to obtain quantities of propane, butanes or ethane necessary to meet the applicant's requirements for the duration of the licence;

(c) information respecting the applicant's propane, butanes or ethane market, including

(i) details of the applicant's propane, butanes or ethane export sale and a copy of every export sales contract for the proposed exportation, and

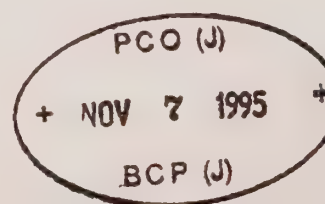


- (ii) a description of the export market to be served by the proposed exportation;
- (d) details of the transportation arrangements pertaining to the proposed exportation, including
  - (i) the details and status of all contractual arrangements, if applicable, for the movement of the propane, butanes or ethane in and outside Canada,
  - (ii) a copy of every transportation contract, if applicable, for the movement of the propane, butanes or ethane in Canada, and
  - (iii) a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the propane, butanes or ethane to market;
- (e) information respecting the potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects; and
- (f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to
  - (i) the removal of propane, butanes or ethane from a province,
  - (ii) the importation of propane, butanes or ethane into the country of destination,
  - (iii) transportation services,
  - (iv) tariffs and tolls,
  - (v) facilities,
  - (vi) environmental reviews, and
  - (vii) contractual arrangements necessary for the exportation of propane, butanes or ethane.

#### Terms and Conditions of Licences for Exportation

21. The following terms and conditions may be included in any licence for the exportation of propane, butanes or ethane:

- (a) the duration of the licence;





(b) the period within which the exportation of propane, butanes or ethane must commence in order for the licence to remain in effect;

(c) the daily, monthly, annual and term quantities of propane, butanes or ethane that may be exported;

(d) the points of exportation of the propane, butanes or ethane from Canada; and

(e) the environmental requirements that must be met in order for the licence to take or remain in effect.

#### Orders for Exportation

22. Where the Board determines that an application for an order for the exportation of propane, butanes or ethane contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person

(a) where the application is in respect of propane and butanes, to export propane and butanes for a period not exceeding one year; and

(b) where the application is in respect of ethane, to export ethane for a period not exceeding two years.

#### Terms and Conditions of Orders for Exportation

23. The following terms and conditions may be included in any order issued pursuant to section 22:

(a) the duration of the order;

(b) the requirement that the holder of the order must file with the Board, within a specified period, evidence of each approval or authorization of a federal, provincial or state government pertaining to

(i) the removal of propane, butanes or ethane from a province,

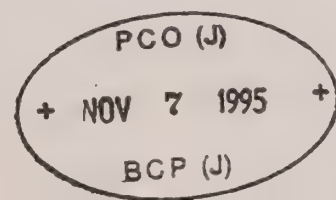
(ii) the importation of propane, butanes or ethane into the country of destination,

(iii) transportation services,

(iv) tariffs and tolls,

(v) facilities,

(vi) environmental reviews, and



- (vii) contractual arrangements necessary for the exportation of propane, butanes or ethane;
- (c) the period within which the exportation must commence in order for the order to remain in effect;
- (d) the daily, monthly, annual and term quantities of propane, butanes or ethane that may be exported;
- (e) the points of exportation of the propane, butanes or ethane from Canada; and
- (f) the environmental requirements that must be met in order for the order to take or remain in effect.

### PART III

#### OIL

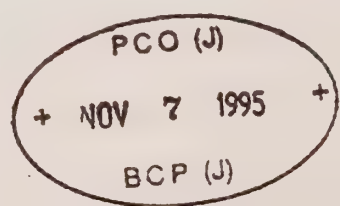
##### *Exemption*

24. The following transactions are exempt from the operation of Part VI of the Act:

- (a) the importation of any oil; and
- (b) the exportation of any oil
  - (i) that is necessary to effect deliveries of oil by pipeline to consignees in accordance with normal pipeline operating practices,
  - (ii) used for exploration, drilling and production operations in the offshore areas over which Canada exercises jurisdiction,
  - (iii) carried by motor vehicles, aircraft, locomotives and ships in their own tanks for their consumption, or
  - (iv) that has previously been imported into Canada, except where the oil is refined petroleum products.

##### *Information to be Furnished by Applicants for Licences for Exportation*

25. Every applicant for a licence for the exportation of oil shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,



(a) the terms that the applicant is requesting for the licence, including

(i) the duration of the licence,

(ii) the daily, annual and term quantities of oil proposed to be exported, and

(iii) the points of exportation of the oil from Canada;

(b) information respecting the applicant's oil supply supporting the proposed exportation, including

(i) a summary of the quantities of oil under every oil supply contract,

(ii) a copy of every oil supply contract,

(iii) the name and location of each pool, field or area that contributes to the oil supply of the applicant and the details of the applicant's contracted or working interest therein,

(iv) an estimate of the oil reserves in each pool, field or area that contributes to the oil supply of the applicant,

(v) supporting data for each estimate referred to in subparagraph (iv),

(vi) basic productive capacity data for each pool, field or area that contributes to the oil supply of the applicant, and

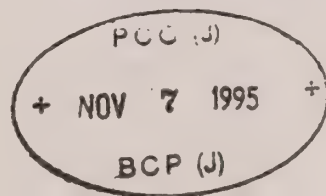
(vii) a table showing anticipated annual production for each pool, field or area that contributes to the oil supply of the applicant, and the total annual production during the licence;

(c) information respecting the applicant's oil market, including

(i) details of the applicant's oil export sale, including a copy of every oil export sales contract for the proposed exportation, and

(ii) a description of the export market to be served by the proposed exportation;

(d) details of the transportation arrangements pertaining to the proposed exportation of oil, including a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the oil to market;



(e) information respecting the potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects; and

(f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to

- (i) the importation of oil into the country of destination,
- (ii) transportation services,
- (iii) tariffs and tolls,
- (iv) facilities,
- (v) environmental reviews, and
- (vi) contractual arrangements necessary for the exportation of oil.

*Licences for Exportation*

26. (1) Subject to subsection (2), the Board may, after holding a public hearing and obtaining the approval of the Governor in Council under section 4, issue a licence authorizing any person

(a) to export heavy crude oil for a period exceeding two years but not exceeding 25 years; and

(b) to export oil, other than heavy crude oil, for a period exceeding one year but not exceeding 25 years.

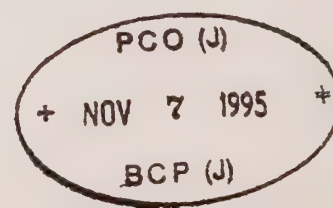
(2) The Board may issue a licence for the exportation of refined petroleum products, resulting from an oil processing arrangement of imported oil, for a period exceeding one year but not exceeding 25 years, without holding a public hearing.

(3) For the purposes of subsection (2), "oil processing arrangement of imported oil" means a commercial arrangement whereby oil is imported for processing or refining at a refinery in Canada, and the refined petroleum products obtained or derived therefrom, or from a quantity of other oil determined by the Board to be comparable thereto, are to be exported from Canada.

*Terms and Conditions of Licences for Exportation*

27. Every licence for the exportation of oil may include terms and conditions respecting

(a) the duration of the licence;





- (b) the period within which the exportation of the oil must commence in order for the licence to remain in effect;
- (c) the total quantity of oil that may be exported;
- (d) the points of exportation of the oil from Canada; and
- (e) the environmental requirements that must be met in order for the licence to take or remain in effect.

*Orders for Exportation*

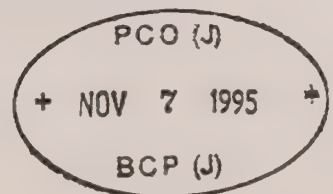
28. Where the Board determines that an application for an order for the exportation of oil contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person

- (a) to export heavy crude oil for a period not exceeding two years; or
- (b) to export oil, other than heavy crude oil, for a period not exceeding one year.

*Terms and Conditions of Orders for Exportation*

29. The following terms and conditions may be included in an order issued pursuant to section 28:

- (a) the duration of the order;
- (b) the period within which the exportation of the oil must commence in order for the order to remain in effect;
- (c) every contract or agreement that the holder of the order enters into for the exportation of the oil for a period exceeding one month must contain a clause relieving the holder of the obligation to export the oil to the extent that exportations are restricted by the Government of Canada;
- (d) the total quantity of oil that may be exported;
- (e) the points of exportation of the oil from Canada; and
- (f) the environmental requirements that must be met in order for the order to take or remain in effect.



SCHEDULE I  
(Clause 12(c)(i)(B))

SUMMARY OF CONTRACT TERMS AND CONDITIONS

1. Canadian Seller:

(a) indicate the full corporate name.

2. U.S. Buyer:

(a) indicate the full corporate name.

3. Third-party Resale Agreements:

(a) indicate if the third-party resale agreement mirrors the international export sales contract and vice versa; and

(b) if it does not, include a summary of the third-party resale agreement.

4. Conditions Precedent:

(a) provide any conditions precedent, including the dates by which the conditions must be met.

5. Term:

Indicate

(a) the length of initial contract term;

(b) the commencement date;

(c) the expiration date; and

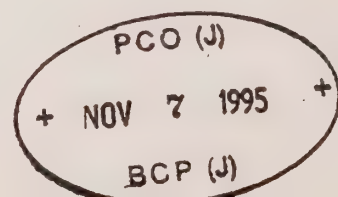
(d) any renewal or termination rights.

6. Delivery point:

Indicate

(a) the point at which the Canadian seller sells to the U.S. buyer; and

(b) the point at which the gas crosses the international boundary, if different from the point referred to in paragraph (a).



## 7. Contract Quantity

Indicate

- (a) in both metric and imperial units,
  - (i) the maximum daily quantity (MDQ),
  - (ii) the daily contract quantity (DCQ),
  - (iii) the monthly contract quantity (MCQ),
  - (iv) the annual contract quantity (ACQ), and
  - (v) the summer and winter quantities, and
- (b) the right to increase or decrease the contract quantity.

## 8. Pricing Provisions:

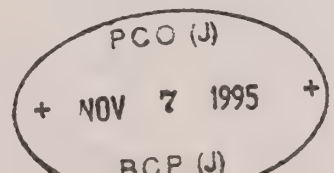
Provide, using the dollars and units of measurement used in the contract,

- (a) a general description of the pricing provisions (for example, a two-part price consisting of a demand charge and a commodity charge);
- (b) a description of the various components of the demand charge, the payment provisions, the adjustment provisions, and associated renegotiation or arbitration provisions;
- (c) a description of the commodity charge, including the base or reference price, pricing indices, fuel costs, the Gas Inventory Charge (GIC), any reservation or stand-by fees, any provision for multi-tier or incentive prices, and any associated renegotiation or arbitration provisions; and
- (d) other pricing provisions not included in paragraphs (a) to (c).

## 9. Take Provisions:

Indicate

- (a) the seller's obligations, including a description of monetary or volumetric penalties for non-performance, any provision for alternate sales rights, and any associated renegotiation or arbitration provisions; and
- (b) the buyer's obligations, including any provision for minimum daily, monthly, seasonal or annual takes, the *pro-rata*



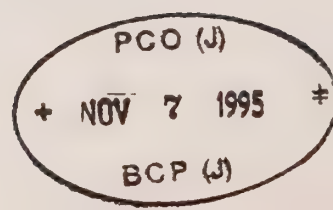
take provisions, the volumetric reduction provisions, the minimum bill provisions, the associated make-up rights, and any associated renegotiation or arbitration provisions.

10. Supply Security:

(a) indicate whether there is a requirement on the part of the seller to provide audited financial statements and regular reports on reserve and deliverability data.

11. *Force Majeure*:

(a) indicate the *force majeure* relief available to the seller and the buyer.





SCHEDULE II  
(Paragraph 12(i))

STATUS SHEET FOR CONTRACTUAL ARRANGEMENTS AND  
REGULATORY APPROVALS AND AUTHORIZATIONS

1. Project data

- (a) Exporter:
- (b) Export Points:
- (c) Importer:
- (d) Maximum Daily Quantity:
- (e) Term:

2. All Applicable Transportation Arrangements

(a) Upstream

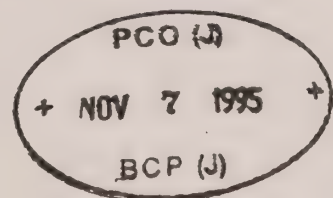
- (i) Transporter:
- (ii) Availability of Capacity:
- (iii) Contractual Arrangement:
- (iv) Term:

(b) Canadian Mainline

- (i) Transporter:
- (ii) Availability of Capacity:
- (iii) Contractual Arrangement:
- (iv) Term:

(c) Downstream

- (i) Immediate Downstream Transporter:
- (ii) Availability of Capacity:
- (iii) Contractual Arrangement:
- (iv) Term:



(v) Further Downstream Transporter:

(vi) Availability of Capacity:

(vii) Contractual Arrangement:

(viii) Term:

### 3. Sales Arrangements

#### (a) All Applicable Gas Sales Agreements

(i) Gas Purchaser:

(ii) Contractual Arrangement:

(iii) Term:

#### (b) All Applicable Power Sales Agreements

(i) Power Purchaser:

(ii) Contractual Arrangement:

(iii) State Regulatory Approval:

#### (c) All Applicable Thermal Sales Agreements

(i) Thermal Purchaser:

(ii) Contractual Arrangement:

### 4. Supply Arrangements

#### (a) All Applicable Gas Supply Agreements

(i) Producer or Supply Aggregator:

(ii) Contractual Arrangement:

(iii) Term:

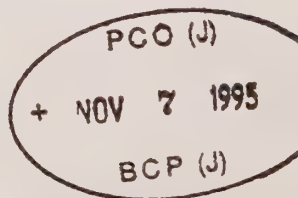
(iv) Contracted Volumes:

### 5. Regulatory Authorizations

#### (a) Provincial Gas Removal Permit

(i) Provincial Removal Permit:

(ii) Date of Application:



(iii) Requested Term and Volume of Permit:

(iv) File Number:

(v) Date of Authorization:

(vi) Permit Number:

(vii) Expiry Date:

(viii) Term Volume:

(b) DOE/FE Import Authorization

(i) Applicant:

(ii) Date of Application:

(iii) Requested Term of Order:

(iv) Hearing Order Number:

(v) Date of Authorization:

(vi) Order Number:

(vii) Expiry Date:

(c) FERC Facility and Service Authorization

(i) Applicant:

(ii) Date of Application:

(iii) Docket Number:

(iv) Date of Authorization:

(v) Order Number:

(vi) Expiry Date:

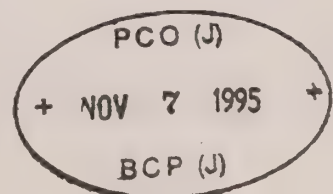
(d) State PSC Facility and Service Authorization

(i) Applicant:

(ii) Date of Application:

(iii) File Number:

(iv) Date of Authorization:



(v) Order Number:

(vi) Expiry Date:

PCO (J)

+ NOV 7 1995

BCP (J)



National Energy Board



Office national de l'énergie

CAI  
MT76  
-NS3

2 February 1996

To: All Interested PersonsSubject: Upcoming Public Hearing of Part VI Gas Export Licence Applications

The National Energy Board is planning to hold its next gas export hearing in May 1996 and hereby gives notice to all potential applicants that completed applications must be filed on or before 29 February 1996 in order to be included in the proceeding.

In July 1987, the Board implemented the Market-Based Procedure ("MBP") which assists the Board in discharging its responsibilities under section 118 of the *National Energy Board Act* with respect to the licensing of natural gas exports. The MBP sets out the procedure by which the Board assesses the merits of applications to obtain a licence for the long-term export of natural gas from Canada.

Applications filed with the Board must meet the Board's Part VI filing requirements and must address the criteria contained in the Board's *Reasons for Decision - Proposed Changes to the Application of the Market-Based Procedure - GHW-1-91 - May 1992*.

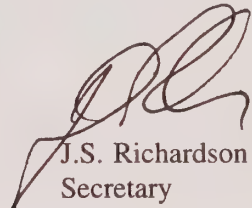
Applicants are reminded that the MBP contains an Export Impact Assessment ("EIA"), the purpose of which is to allow the Board to determine whether a proposed export is likely to cause Canadians difficulty in meeting their energy requirements at fair market prices. Applicants have the option of filing their own analysis or adopting the Board's EIA. The Board's most recent EIA is contained in Chapter 6 of its report entitled *Canadian Energy Supply and Demand 1993-2010* which was released in December 1994. The Board also reminds applicants that, if the proposed export covers a period beyond the Board's EIA (i.e. 2010), they should submit evidence to demonstrate that the export would not cause Canadians difficulty in meeting their energy requirements at fair market prices for the period beyond 2010.

The Board has adopted the necessary connection test described in its *Reasons for Decision* in GH-3-94 as its procedure in this hearing for considering when upstream environmental effects will be relevant to its determination of an application. Applicants are therefore requested to file information sufficient to determine if the applied-for export licence and new upstream facilities or activities are integrated to the extent that they can be seen to form part of a single course of action. If such new facilities or activities will be constructed or undertaken, applicants are requested to file an assessment of the potential environmental effects of those new facilities or activities on matters subject to federal jurisdiction and any directly related social effects. If applicable, this requirement may be met by filing:

- (i) a description of the environmental aspects of the regulatory regime applicable to the facility or activity in question;
- (ii) all government authorizations received;
- (iii) environmental assessments submitted in seeking these government authorizations; and
- (iv) a description of any environmental mitigative measures to which the applicant is committed.

Following the 29 February 1996 filing deadline, the Board will issue its hearing order and directions on procedure for those applications which are to be included.

Yours truly,



J.S. Richardson  
Secretary



National Energy Board

Office national de l'énergie

CAI  
MT76  
- N 53File No. 7205-M093-18  
20 February 1996

Mr. Loyola Keough  
Bennett Jones Verchere  
Barristers & Solicitors  
4500, 855 - 2nd Street S.W.  
Calgary, Alberta  
T2P 4K7



Dear Sir:

**Re: Hearing Order GH-4-95 - Morgan Hydrocarbons Inc. ("Morgan") and Coastal Gas Marketing Company ("Coastal") [collectively referred to as "the applicants" or "Morgan/Coastal"]**

By application dated 23rd August 1995, Morgan/Coastal sought, pursuant to Part VI of the *National Energy Board Act* ("the Act"), a joint licence for the export of natural gas for a term commencing on the later of 1 April 1996 or the date firm transportation is available for the full volume purchased on the pipeline system of TransCanada PipeLines Limited ("TCPL") and ending on 31 October 2006. The companies sought to export a maximum daily quantity of  $283.3 \times 10^3 \text{ m}^3$  (10.0 MMcf), a maximum annual quantity of  $104.0 \times 10^6 \text{ m}^3$  (3.7 Bcf) and a maximum term quantity of  $1 \times 10^{10} \text{ m}^3$  (41.2 Bcf). Morgan advised that it would provide the gas from its corporate Alberta and Saskatchewan supply pools. No specific pools were contractually dedicated by Morgan to Coastal, however a submitted supply was identified in the application.

## THE BOARD'S REQUIREMENTS

Before considering the evidence on gas supply filed by the Applicants in this case, the Board notes it would be useful to set out the relevant regulatory requirements and Board policies related to the gas supply necessary to support an export application. The Board, in considering an export application, implemented a procedure known as the market based procedure (MBP) founded on the premise that the market place would generally operate in such a way that Canadian requirements for natural gas would be met at fair market prices. This procedure was implemented pursuant to a *Review of Natural Gas Surplus Determination Procedures* (GHR-1-87), and was modified following subsequent public hearings GHW-4-89 and GHW-1-91.

...2

As noted by the Board in its Reasons for Decision in the GH-3-94 Review<sup>1</sup>, the gas supply to meet the requirements of an export is usually provided in one of four ways: dedicated supply, non-dedicated supply, corporate supply and aggregator supply. For a dedicated supply portfolio, specific gas pools, lands or wells which will provide the gas to be exported, are identified in the sales contract. With non-dedicated supply, an applicant chooses to rely on an identified list of pools to supply its gas export proposal, but notes that the pools are identified to satisfy regulatory filing requirements and may not, ultimately, be the pools relied upon for the export sale. In these cases the real source of the gas supply is the corporate pool. A corporate supply portfolio is comprised of a listing of pools from which the applicant intends to serve all of its contractual commitments including export, and may contain some or all of the gas supply controlled by a producer. The final type of supply portfolio, aggregator supply, is similar to a corporate supply portfolio, with the difference that it is usually comprised of a large collection of individual gas pools operated by many different producers who market gas through the aggregator.

The MBP provides that the Board will act in two ways to ensure that natural gas to be licensed for export is both surplus to reasonably foreseeable Canadian requirements and in the public interest: it will hold public hearings to consider applications for licences to export natural gas, and it will monitor Canadian energy supply and demand and markets, on an on-going basis. As part of the public hearing component of the MBP, the Board takes into account certain public interest considerations. The Board normally:

- makes an assessment of the likelihood that licensed volumes will be taken;
- makes an assessment of the durability of gas sales contracts;
- has regard to whether gas sales contracts were negotiated at arm's length;
- verifies that there is producer support for a gas export application;
- verifies that there are provisions in the gas sales contracts for the payment of associated transportation charges on Canadian pipelines over the term of the gas sales contract; and
- determines the appropriate length of term for an export licence having regard to:
  - evidence on the adequacy of the gas supply available to the export licence application to support the applied-for volumes over the requested licence term;
  - evidence on the necessity of the requested term in light of the terms of the associated gas sales and transportation contracts and the terms of the approvals from other regulatory bodies; and
  - any other evidence which the Board deems to be relevant to the appropriate term of the licence.

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<sup>1</sup>p. 22, 23.



In GHW-1-91, *Proposed Changes to the Market Based Procedure*, the Board stated that when considering evidence on the adequacy of the gas supply available to the export licence applicant to support the applied-for volumes over the requested licence term, the Board normally expected applicants to support export applications with both 100% reserves coverage and with productive capacity adequate to cover a majority of the licence term. The Board noted in that decision that although it normally expects and usually receives dedicated reserves which match the volumes applied for, it has adopted a flexible approach, and in certain cases has granted export licences supported by less than full dedicated reserves on the basis of other supporting information. The Board noted that in some cases it had shortened the term of licences on the basis of a shortfall in reserves or productive capacity.

Since that decision, applicants have moved away from relying on contractually dedicated supply to meet the requirements of the applied-for export licence and now the Board normally receives either submitted supply or a corporate supply pool. In the case of a submitted supply which is not contractually dedicated to the proposed export, the Board usually expects that this supply will be backed by corporate supply. Detailed information on the submitted supply is usually filed and more general information provided for the corporate supply.

The *National Energy Board Part VI Regulations*<sup>2</sup> require in s. 4(1) that "every applicant for a licence for the export of gas shall furnish to the Board such information as the Board may require." Certain requirements are then set out which are to be met unless otherwise authorized by the Board. These requirements include extensive information related to gas supply as set out in paragraphs (b) and (d) to (h).<sup>3</sup>

The Board is well aware of the changes that have occurred since those regulations went into force in the natural gas industry. As a result, some of the information requested in the existing regulations may not be relevant to an export application. The Board notes, though, that the proposed Part VI Regulations require that supply information be filed unless otherwise authorized by the Board. This information is to include a summary of the quantities of gas under contract to or owned by the applicant, including daily and annual volumes, reserves and the termination date of every such contract, and a copy of each pro forma contract for each type of gas purchase contract; and certain information respecting the applicant's gas market. Where the gas proposed to be exported is to come from a gas supply other than a contractually dedicated pool, field or area, a gas supply and demand balance for the reserves supporting the application on both an aggregate and an annual basis for the duration of the proposed exportation is to be provided. It should identify all firm contractual commitments supported by those reserves.

It is against this backdrop that the applicant's evidence on gas supply is considered.

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<sup>2</sup>C.R.C. c. 1056 as amended.

<sup>3</sup>Morgan/Coastal was relieved from the application of paragraph 4(2)(b).

## EVIDENCE RE: GAS SUPPLY

As part of its filed application, Morgan/Coastal provided information on a submitted supply and advised that this supply was not dedicated to the Coastal contract and that supply would be produced from Morgan's corporate supply pool. Morgan also submitted that Coastal was relying on Morgan's corporate warranty contained in the contract. Table 2.5 was filed which set out a productive capacity forecast for the submitted supply until 2005. This productive capacity forecast indicated between 314 and 329  $10^3\text{m}^3$  (11.1 and 11.6 MMcf) per day was available to meet requirements of 283  $10^3\text{m}^3$  (10.0 MMcf) per day. By information request dated 12 September 1995 the Board requested a copy of the contract between Morgan and Coastal and was provided with a copy of a letter agreement. By information request dated 27 September 1995 the Board requested a supply and demand balance over the term of the contract for the corporate supply of Morgan so that an assessment could be made of the adequacy of supply to meet the requirements of the export. Morgan/Coastal did not provide the requested information. In that information request the Board noted that the production from 1 January 1995 to startup 1 April 1996 had not been accounted for in Morgan's net remaining marketable reserves. The Board also asked for an explanation of the methodology and key assumptions used to determine Morgan's productive capacity forecast and any supporting data. In addition, the Board sought a revised productive capacity forecast table accounting for production to project startup over the proposed licence term. Morgan/Coastal did not provide this information but advised that Morgan was an active explorer and developer and could accelerate deliverability or purchase gas to make up shortfalls.

By information request dated 12 October 1995 the Board requested details of the productive capacity of the originally submitted supply. Morgan provided a revised productive capacity schedule Table 2.5 and advised that it demonstrated that it has sufficient deliverability from undedicated properties to satisfy the requirements of the sale to Coastal over the term of the agreement. Morgan further submitted that it would be relying on its corporate supply pool to satisfy its commercial obligations and expected to conduct additional exploration and development and acquire third party and working interest holder gas. The revised Table 2.5 showed the unconstrained production from the previously identified production areas which were connected and indicated declining productive capacity over the applied-for term. It showed that the daily requirements of the export could not be met after 2001.

By correspondence dated 31 October 1995 the Board received the contract entered into between Morgan and Coastal. When questioned at the hearing as to the evidence it was relying on to indicate it has gas supply in excess of commitments, Morgan/Coastal responded at transcript pages 86 and 87 that it was relying on Morgan's overall corporate supply and its corporate warranty as contained in the contract. When asked to supply a corporate supply and demand balance at transcript pages 87 and 88, Morgan/Coastal responded that they would rely on the submitted supply and Morgan was not submitting a corporate supply and demand balance.

At transcript pages 88 and 89, Board counsel asked Morgan/Coastal whether it would prefer the Board to reduce the term volume, or provide for a full annual volume over a reduced term, or provide for a reduced daily and annual volume over the full term if the Board's analysis indicated a shortfall in gas supply relative to Coastal's requirements and the Board decided to curtail the export volumes. Morgan/Coastal responded that it would prefer to reduce the term volume, but "would like the opportunity to bring on further supply, if you deem that to be your decision."

By letter to Morgan/Coastal dated 7 December 1995 the Board requested a corporate supply and demand balance from Morgan in line with the requirements of subsection 4(1) of the *Part VI Regulations*. By letter dated 12 January 1996 Morgan/Coastal advised that they were relying on the evidence already filed to establish that the "non-dedicated reserves" of Morgan more than meets the full term volume under the applied-for licence and the productive capacity from those reserves is more than that required for the majority of the applied-for term. By letter dated 25 January 1996 the Board again asked for a corporate supply and demand balance in order to examine the application. By letter dated 31 January 1996 Morgan/Coastal provided a document entitled Supply/Demand Balance. This document indicated Morgan's supply as of 31 December 1994 in the amount of  $3235.1 \times 10^6 \text{ m}^3$  (114.2 Bcf). It showed Morgan's committed reserves as of that date as  $1988.6 \times 10^6 \text{ m}^3$  (70.2 Bcf) and its remaining uncommitted reserves as of that date as  $1246.4 \times 10^6 \text{ m}^3$  (44.0 Bcf). No evidence on annual productive capacity versus annual commitments was provided.

By letter dated 8 February 1996 the Board advised Morgan/Coastal that it was not satisfied with the information provided. It noted that it is not possible to determine from the data provided whether Morgan has sufficient corporate supply to meet its commitments, including those applied for, over the proposed term. The data was not in the format typically provided to the Board and as requested in IR 2.3. Generally supply and demand data are provided in an aggregate form and on an annualized basis over the term of the applied-for licence. The Board advised that if the information was not provided in a satisfactory manner by 16 February 1996, no further consideration would be given to the application.

By letter dated 15 February 1996 Morgan/Coastal stated that if the Board were to decide that one of the many criteria that an applicant must satisfy has not been adequately fulfilled then the appropriate course of action would be to render a decision based on the information before the Board. They stated that past precedent would indicate that in circumstances where the Board considers the reserves underpinning the export application to be inadequate to support the full term volume requested, then the Board has the ability to reduce such term volume to a level consistent with the Board's findings. They submitted that the expert evidence on Morgan's reserves is the only gas supply evidence before the Board. Morgan then provided a corporate supply and demand balance that set out corporate reserves, obligations for several contracts (excluding term dates) against those reserves and indicated that the remaining uncommitted reserves available for the corporate pool as of 31 December 1994 were  $1512.7 \times 10^6 \text{ m}^3$  (53.4 Bcf). No information on productive capacity or commitments on an annualized basis was provided.



## VIEWS OF MR. R. ILLING AND MS. J. SNIDER

It has been submitted by Morgan/Coastal that the Board has the ability to exercise its discretion to grant the applied-for licence on the basis of the evidence filed. To quote from the correspondence received from the applicants on 15 February 1996:

"Past precedent would indicate that in circumstances where the Board considers that the reserves underpinning the export application to be inadequate to support the full term - volume requested then the Board has the ability to reduce such term - volume to a level consistent with the Board's findings. This is both a practical and workable solution."

In exercising its discretion, the Board must have regard for the Act and the *Part VI Regulations*. In addition, the Board is guided by the MBP which describes certain public interest considerations which the Board will take into account. One of those considerations states that the Board will determine the appropriate length of term of an export licence having regard to evidence on the adequacy of the gas supply available to the export licence application to support the applied-for volumes over the requested licence term. It is in the context of this public interest consideration that the Board has examined the evidence on gas supply submitted by the applicants.

The Board has discretion to grant an export licence which is not supported by contractually dedicated reserves. However, in the absence of such dedicated reserves, the Board has required the applicant to demonstrate the adequacy of the gas supply through other evidence such as corporate supply or submitted reserves backed by corporate supply. Where submitted reserves are relied on, backed by corporate supply, certain information on that corporate supply is normally provided before the Board approves an export licence. While it is correct that in some cases the Board has shortened the term of licences on the basis of a shortfall in reserves and productive capacity, the evidence submitted by the applicants in those cases was sufficient for the Board to determine that the gas supply available to support the applied-for volumes over the requested licence term was adequate to support a shortened term or reduced term-volume.

In this case, no reserves are dedicated and the applicants seek to rely on submitted supply backed by corporate supply and the corporate warranty contained in the gas sales contract. As discussed under the heading "Evidence re: Gas Supply", the Board sought to obtain all of the information it considered relevant and necessary on to the record so it could consider the application. For whatever reasons, the applicants did not provide this information, with the result that the Board is of the view that it does not have the information necessary to consider an exercise of its discretion. The evidence it considers necessary has not been received. For that reason, this application is denied.



**VIEWS OF MR. R. L. ANDREW**

I have reviewed and concur with the decision of the majority to deny the application. However, I do not agree entirely with their reasons. Morgan submitted its uncontracted and uncommitted Alberta supply pool ("the submitted supply") in support of its application. The reserves and productive capacity of those pools indicated an adequate term. Generally, the Board could accept this as sufficient provided that the supply was dedicated or a satisfactory corporate supply and demand balance was provided by the applicant to backstop the same. Neither of these conditions were met in this case. Rather, the applicant sought to rely upon a corporate warranty. The Board has not traditionally accepted a simple corporate warranty in place of the previously mentioned conditions, because in order for it to have any meaning, the Board would need to assess the financial status of the company. On the basis of the evidence presented, I would normally have granted a licence but with a reduced term and volume because of the lack of adequate backstopping. However, my level of comfort that the submitted reserves will be committed to and adequate for a licence is only marginally greater than the two-year term of the order currently being used to supply this contract. In the result, I agree with the denial of the application by the majority.

Yours truly,

A handwritten signature in dark ink, appearing to read 'J.S. Richardson', is written above the printed name.

*for* J.S. Richardson  
Secretary

cc: All Parties to GH-4-95



CAI  
MT76  
-N 53

National Energy Board



Office national de l'énergie

File 4200-T001-10  
22 February 1996

**BY FACSIMILE**

Mr. James M. Murray  
General Counsel  
Litigation & Regulatory  
TransCanada PipeLines Limited  
P.O. Box 1000, Station M  
Calgary, Alberta  
T2P 4K5

Dear Mr. Murray:

**Re: TransCanada PipeLines Limited ("TransCanada")  
Application Dated 5 July 1995 for 1996 Tolls ("RH-2-95")  
Reasons for Decision Regarding Phase 2**

The Board has completed its consideration of RH-2-95, Phase 2 matters, and issues the attached Decision with Reasons for Phase 2.

Yours truly,

A handwritten signature in black ink, appearing to be "J.S. Richardson".  
J.S. Richardson  
Secretary

Attachment

c.c.: Interested Parties to RH-2-95





**TransCanada PipeLines Limited ("TransCanada")**  
**Application Dated 5 July 1995 for 1996 Tolls ("RH-2-95")**  
**Reasons for Decision Regarding Phase 2**

**Background**

On 5 July 1995, TransCanada PipeLines Limited ("TransCanada") filed an application pursuant to Part IV of the *National Energy Board Act* ("the Act") for new tolls to be effective 1 January 1996.

On 1 September 1995, the National Energy Board ("Board") issued Hearing Order RH-2-95 setting down the application for a public hearing to commence on 11 December 1995. Hearing Order RH-2-95 was amended by letters dated 12 October and 7 and 16 November 1995.

On 20 October 1995, the Board approved a request by TransCanada to divide the proceeding into two phases. Phase 1 would deal with issues related to cost allocation, toll design and tariff matters. Phase 2, which would begin no earlier than 29 January 1996, would deal with cost of service and other matters. TransCanada submitted that phasing would allow it sufficient time to complete settlement negotiations respecting cost of service matters.

Phase 1 of the hearing took place in Ottawa, Ontario on 11, 12, 13 and 14 December 1995. The Board issued its decision with respect to Phase 1 in a Letter Decision dated 28 December 1995.

Phase 2 commenced with the filing on 20 December 1995 by TransCanada of a Tolls Task Force Resolution containing an application for Orders approving an Incentive Cost Recovery and Revenue Sharing Settlement ("Settlement").

On 2 January 1996, TransCanada filed revised cost of service and net revenue requirement schedules as well as revised tolls which would result from the implementation of all Phase 1 decisions, a revised rate of return of 11.25 percent and the proposed Settlement.

On 9 January 1996, TransCanada filed a request that interim tolls for 1996 be established based on its 2 January 1996 filing. The Board approved this request on 10 January 1996.

On 9 January 1996, TransCanada also filed another Tolls Task Force Resolution seeking approval of a proposal for the disposition of the 1995 Stress Corrosion Cracking ("SCC") Deferral Account.

In a letter dated 17 January 1996, the Board cancelled the oral hearing initially scheduled for Phase 2. In its place, the Board requested TransCanada to hold an open forum to present the Settlement and to provide parties an opportunity to question TransCanada on the Settlement. Parties were also given an opportunity to provide comments, in writing, to the Board by 2 February 1996. TransCanada was afforded an opportunity to provide any reply comments by 6 February 1996.

The open forum was held on 29 January 1996.

No parties have expressed opposition to either Resolution during the comment period provided by the Board.

## The Board's Negotiated Settlement Guidelines

In examining agreements among parties to a proceeding, the Board is guided by its *Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs*, dated 23 August 1994, and the cover letter from the Board of the same date (the "Guidelines"). Of particular relevance in these proceedings are the following extracts from those documents:

- All parties having an interest in a pipeline's traffic, tolls and tariffs should have a fair opportunity to participate and have their interests recognized and appropriately weighed in a negotiated settlement. The settlement process should be open and all interested parties should be invited to participate in the actual settlement negotiations.
- Upon filing of information related to the resolution of individual toll design, tariff or other matters, interested parties would be provided with an opportunity to comment on each resolution. Resolutions that were not opposed by any party would normally be accepted by the Board.
- The Board confirms that, when presented with a settlement package, it will either accept or reject the package in its entirety.

## 1996 Tolls Task Force Resolutions

With respect to Phase 2, TransCanada filed two unopposed Tolls Task Force Resolutions with the Board for approval.

**Resolution 96-22** proposed the implementation of an Incentive Cost Recovery and Revenue Sharing Settlement. The terms of the Settlement would be applied to determine the Net Revenue Requirement utilized by TransCanada in the calculation of tolls for the transportation of natural gas on the TransCanada system, in accordance with the toll methodology and pursuant to the TransCanada Transportation Tariff approved from time to time by the National Energy Board.

The following is a brief summary of the Settlement:

- The Settlement covers a period of four years from 1 January 1996 to 31 December 1999.
- The stated objectives of the Settlement, which pertains only to TransCanada's mainline transmission business, are to: minimize costs; maximize throughput; encourage efficiency gains; maintain or improve service quality and financial integrity and preserve firm shippers' flexibility and ability to effectively use their transportation contracts.
- The Net Revenue Requirement for the purposes of calculating transportation tolls shall be based on a formula which includes: Incentive Cost Envelope programs; Flow-Through Cost Envelope programs; Miscellaneous Revenues and other incentive programs as detailed in the Settlement.
- The Incentive Cost Envelope includes five components: Transportation by Others ("TBO"); Operations, Maintenance and Administration; Gas Related Expense; Municipal and Other Taxes and NEB Cost Recovery Expense. These costs are to be predetermined annually. For

the 1996 Test Year these costs were established at \$678,762,000. For each Test Year after 1996, the Incentive Cost Envelope will be based on actually experienced costs in the preceding year, multiplied by a "net adjustment factor". Any variances between actuals and Test-Year costs are to be generally shared equally by TransCanada and the shippers with some minor exceptions (for Municipal and Other Taxes and Transmission By Other costs), as set out in the Settlement.

- The Flow-Through Cost Envelope includes: Return on Rate Base; Income Taxes; Depreciation; Foreign Exchange on Debt Retirement; Foreign Exchange Costs; Insurance Deductible Costs and SCC Costs. These costs are to be forecast each Test Year in the usual fashion. Subject to a review and complaint procedure allowed for in the Settlement, all variances between the actual costs in the Flow-Through Envelope and the corresponding test-year costs will flow directly to the cost of service in the year following the Test Year.
- Non-Discretionary Miscellaneous Revenue ("NDMR") will be forecast in each Test Year and approved by the Board. Variances shall be calculated and included in a Flow-Through Deferral Account and, subject to the review and complaint procedures provided for in the Settlement, shall be applied to the Cost of Service in the year immediately following the Test Year. For Discretionary Miscellaneous Revenue ("DMR") a benchmark level is established in the Settlement at \$12,300,000. The Settlement provides for numerous adjustments to DMR in the event of non-renewal of FT contracts or other contingencies.
- TransCanada will be implementing a Foreign Exchange Management Program (covering interest expense and TBO costs denominated in foreign currencies) and an Interest Rate Management Program (to provide incentive for reducing long-term debt) upon approval of this Settlement and as soon thereafter as practicable.
- Two other cost and revenue sharing mechanisms included in the Settlement, the Capital efficiency Mechanism and the Fuel Incentive Mechanism remain to be developed and will not be implemented in 1996. Both mechanisms must be discussed further by the Tolls Task Force to see if any agreement can be reached on them.
- Other provisions in the Settlement cover: complaints by shippers; Tolls Task Force review of cost adjustments and amounts of shared revenue; calculation of allocation units and tolls; reporting and filing requirements; audits; terms of settlement and continuation of settlement; disposition of existing deferral accounts and flow-through and incentive-based deferral accounts.
- Toll design and tariff matters are not a part of this Settlement.

The foregoing list is representative of the Settlement only. For a complete understanding or more details of the terms of the Settlement, parties should refer to the original document.

**Resolution 96-23** proposed that all SCC-related costs incurred as at 31 December 1995, together with carrying costs shall be borne equally by TransCanada and its toll payers. The carrying charges would be computed monthly from the average of the opening and closing balances in the account for each month multiplied by 1/12th of TransCanada's authorized rate of return on rate base and recorded in



the 1995 SCC Deferral Account. One-half of the 1995 SCC Deferral Account balance will be applied to TransCanada's Cost of Service for the 1996 Test Year.

### *Views of the Board*

The Board considers that the process followed by TransCanada in negotiating the Settlement, together with the open forum, provided parties and the Board the opportunity to obtain clarification with respect to the terms of the Settlement. Subsequent to the open forum, parties were afforded an opportunity to file any final comments with the Board. No comments opposing either Resolution 96-22 or 96-23 were received. In the view of the Board, the procedure allowed ample opportunity for all parties, including the Board, to examine the Settlement and ensure that it was in accordance with the Board's Guidelines.

### **Decision**

**The Board approves Resolutions 96-22 and 96-23 in full and directs that the provisions of the resolutions be implemented in determining TransCanada's Net Revenue Requirement and resulting tolls for 1996.**

**In addition, the Board also approves all forecasts, underlying assumptions, methodologies and schedules used in the Application, as amended during the course of RH-2-95.**

**TransCanada is directed to file, by 27 February 1996, revised schedules and tolls implementing all decisions of the Board from Phase 1, Phase 2 and the revised rate of return on common equity of 11.25%. TransCanada is directed to inform the Board and all interested parties if, by implementing these decisions, no changes are required to the current interim tolls and supporting schedules filed under cover of TransCanada's letter of 2 January 1996.**

**The current interim tolls will remain in effect until the Board has issued its final order with respect to 1996 tolls.**

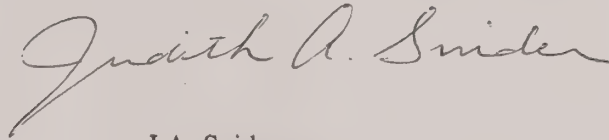
### **General**

The Board will, at a later date, be issuing a consolidated version of the decisions which will include under one cover key documentation for both Phase 1 and Phase 2 of RH-2-95, including the complete text of the Incentive Cost Recovery and Revenue Sharing Settlement.

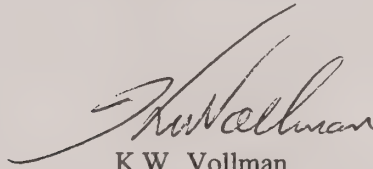


**Disposition**

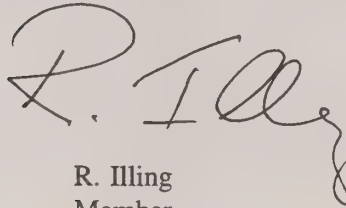
The foregoing constitute our Decision and Reasons for Decision on this matter.



J.A. Snider  
Presiding Member



K.W. Vollman  
Member



R. Illing  
Member

Calgary, Alberta  
February 1996



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MT76  
-NS3

National Energy Board



Office national de l'énergie

26 July 1996



To: All Interested Persons

Subject: Upcoming Public Hearing of Part VI Gas Export Licence Applications

The National Energy Board is planning to hold its next gas export hearing in November 1996 and hereby gives notice to all potential applicants that completed applications must be filed on or before 29 August 1996 in order to be included in the proceeding.

In July 1987, the Board implemented the Market-Based Procedure ("MBP") which assists the Board in discharging its responsibilities under section 118 of the *National Energy Board Act* with respect to the licensing of natural gas exports. The MBP sets out the procedure by which the Board assesses the merits of applications to obtain a licence for the long-term export of natural gas from Canada.

Applications filed with the Board must meet the filing requirements contained in the Board's *Part VI (Oil and Gas) Regulations* and must address the criteria contained in the Board's *Reasons for Decision - Proposed Changes to the Application of the Market-Based Procedure - GHW-1-91 - May 1992*.

Applicants are reminded that the MBP contains an Export Impact Assessment ("EIA"), the purpose of which is to allow the Board to determine whether a proposed export is likely to cause Canadians difficulty in meeting their energy requirements at fair market prices. Applicants have the option of filing their own analysis or adopting the Board's EIA. The Board's most recent EIA is contained in Chapter 6 of its report entitled *Canadian Energy Supply and Demand 1993-2010* which was released in December 1994. The Board also reminds applicants that, if the proposed export covers a period beyond the Board's EIA (i.e. 2010), they should submit evidence to demonstrate that the export would not cause Canadians difficulty in meeting their energy requirements at fair market prices for the period beyond 2010.


The Board has adopted the necessary connection test described in its *Reasons for Decision* in GH-3-94 as its procedure in this hearing for considering when upstream environmental effects will be relevant to its determination of an application. Applicants are therefore requested to file information sufficient to determine if the applied-for export licence and new upstream facilities or activities are integrated to the extent that they can be seen to form part of a single course of action. If such new facilities or activities will be constructed or undertaken, applicants are requested to file an assessment of the potential environmental effects of those new facilities or activities on matters subject to federal jurisdiction and any directly related social effects. If applicable, this requirement may be met by filing:

.../2

- (i) a description of the environmental aspects of the regulatory regime applicable to the facility or activity in question;
- (ii) all government authorizations received;
- (iii) environmental assessments submitted in seeking these government authorizations; and
- (iv) a description of any environmental mitigative measures to which the applicant is committed.

Following the 29 August 1996 filing deadline, the Board will issue its hearing order and directions on procedure for those applications which are to be included.

Yours truly,



*J.S. Richardson*  
for: J.S. Richardson  
Secretary





National Energy Board

Office national de l'énergie

CAI  
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- N 23

9 August 1996



TO: INTERESTED PERSONS

RE: National Energy Board Intervenor Funding Options Report

At the direction of the Minister of Natural Resources, the Honourable A. Anne McLellan, the National Energy Board has released its Intervenor Funding Options Report. In her original request to the Board dated 12 December 1995, Minister McLellan asked that the Board examine "the possibilities for providing financial assistance to intervenors participating in National Energy Board proceedings, with particular regard to proceedings under Part III of the *National Energy Board Act*, especially where landowners' interests are directly affected". The Minister also asked that the Board address intervenor funding "within the present federal legislative framework". In its report, the Board presented a framework for an intervenor funding program under the *National Energy Board Act*, while acknowledging that potential exists for alternatives, such as an industry-sponsored program of intervenor funding.

The Board's proposal would be initiated by an annual appropriation of funds as part of the government-wide budgeting process. Following the grant of *Appropriation Act* authority, which would specify the purposes and maximum funding levels for intervenor funding, the National Energy Board would make disbursements of specific contributions for intervenor funding through an administrative process, after receiving a recommendation for funding from an independent panel of advisors. All funds disbursed by the Board for the purposes of intervenor funding would be subsequently recovered through the National Energy Board cost recovery program.

In her letter dated 24 July 1996, the Minister of Natural Resources asked the Board to seek and report back to her the views of interested parties on the Board's study and recommended option. The Minister also indicated her interest in learning of any alternatives put forward in the public consultation process, which may assist in resolving issues affecting landowners and other parties who are affected by pipeline projects.

Accordingly, the Board is soliciting comments on its proposal and on other aspects of its report or other alternatives for intervenor funding.

The Board is requesting that all interested persons register their interest in this process by the close of business on Tuesday, 20 August 1996. Shortly thereafter, the Board will issue a list of interested persons and a finalized list of issues. All persons who register their interest in this proceeding will

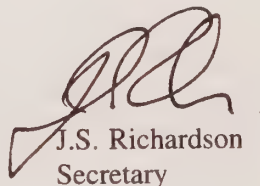
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have until the close of business on Monday, 9 September 1996 to file a submission outlining their views on the Board's proposal and any alternatives to that proposal. A copy of any submission must be sent to all persons whose name appears on the Interested Persons List. Following the filing and serving of submissions, all interested persons will have until the close of business on Monday, 23 September 1996 to comment on the views of other interested persons.

The Board will then advise the Minister of the results of the public consultation.

A tentative list of issues as well as a background description of the intervenor funding process identified by the Board and the letter to the Board from the Minister of Natural Resources is attached to this letter. Further information may be obtained from the Regulatory Officer, Ms. Leigh Ann Galbraith at the National Energy Board, 311 - 6th Avenue S.W. Calgary, Alberta T2P 3H2, telephone (403) 299-3928, facsimile (403) 292-5503.

Yours truly,



J.S. Richardson  
Secretary

Attach.

### TENTATIVE LIST OF ISSUES

1. - Is the budget-based option a practical means of providing for intervenor funding in respect of pipeline projects?
2. Are there alternative methods of providing intervenor funding in respect of pipeline projects?
3. How should intervenor funding be integrated into the regulatory process having regard to the following:
  - impacts on the time required to complete regulatory processes;
  - other funding sources;
  - joint intervention requirements;
  - eligible expenses?





## **INTERVENOR FUNDING**

### **How the Board's Proposal Would Work in Practice**

For this scenario it is assumed that a company has proposed to construct an interprovincial pipeline and associated facilities which requires a public hearing and a landowner, whose land will be affected by the pipeline project, wishes to intervene in the public hearing and requires funding to do so.

#### ***Capsulization of How a Landowner Will be Involved***

- The landowner will be made aware of the project by a company (prior to an application being filed with the Board) and will be given an opportunity to express its views to the company
- A Notice of Public Hearing will be published in the landowner's community newspaper announcing that the Board has set the application down for public hearing and that intervenor funding will be available
- A landowner will have the right to file an intervention with the Board and request intervenor funding
- The Board will then advise the landowner if he/she has been accepted as an intervenor, and if he/she has been accepted, the Board will send an official application for intervenor funding to be filled out by the landowner
- The landowner's application for intervenor funding will then be reviewed by a Screening Panel
- If the Screening Panel recommends funding, the Board will then authorize a contribution for the landowner in accordance with pre-established financial rules
- After the hearing, the landowner will send his/her invoices to the Board for auditing
- After the audit, any unspent funds, will be collected from the landowner

#### ***Filing of the Application with the Board***

When a company has completed its application, including an early public notification program ("EPN"), it files the application with the Board for approval (the EPN is a program to ensure that landowners affected by the pipeline project are made aware of the project as early as possible and are given an opportunity to express their views to the company). When the application is filed, a news release, which provides a brief description of the application and the name of a contact person at the Board, is issued to announce the filing of the application.

#### ***Hearing Order and Direction on Procedures***

After the Board is satisfied that the application is complete enough to be set down for public hearing, the Board announces the date and location for the public hearing and the dates for filing documents. The Board also issues a news release announcing that the application has been set down for public hearing.

A Notice of Public Hearing is published in appropriate newspapers, as determined by the Board. The Notice will give information on the date and location of the hearing, how to intervene in the hearing, the date by which interventions are to be filed with the Board and will also announce that funding may be available to landowners if they cannot afford to pay for services needed in order to present their case to the Board.

## ***Interventions***

If a landowner decides to intervene in the public hearing, he/she must file an intervention with the Secretary of the Board, by the date specified in the Notice of Public Hearing, and indicate in the intervention that intervenor funding will be required.

## ***Intervenor Funding Application***

Following the date set for filing interventions, the Board will issue a list of intervenors. If the landowner's name appears on that list and he/she has indicated that intervenor funding is required, the Board will send the landowner an official application.

When the landowner's application for intervenor funding is received at the Board, it will be reviewed by an external Screening Panel consisting of advisors appointed by the government to help the Board deal with funding applications. If the Panel decides that the landowner should receive funding, it will send a recommendation to the Board's management who may disburse funds in accordance with pre-established rules.

## ***Funding Approved***

Once intervenor funding is approved, and released, the landowner may make expenditures for the purposes set out in his/her funding application.

## ***After the Hearing***

Following the hearing, the landowner must submit invoices to the Board for audit and any funds that have not been spent will be recovered.

## ***Assumptions***

The above scenario of the Budget-based option is made assuming that all required policies have been approved. They are as follows:

- Parliament has provided annually a fixed amount of money to implement the budget-based intervenor funding scheme.
- The Board has established the administrative rules to regulate the expenditures initiated pursuant to the appropriation of funds.
- The *National Energy Board Rules of Practice and Procedure, 1995* have been amended to set out the information and forms for making applications for funding.
- The Governor in Council has appointed non-employees of the Board (the Screening Panel) to review the intervenor funding applications according to criteria established for this program.
- The method for the Board to recover the expenditures has been implemented.



JUL 24 1996

Mr. Roland Priddle  
Chairman  
National Energy Board  
311 - 6th Avenue South West  
Calgary, Alberta  
T2P 3H2

Dear Mr. Priddle:

Thank you for your letter of March 21, 1996, with which you enclosed the National Energy Board's (NEB) report on *Intervenor Funding Options*.

I had asked the Board in December 1995 to study methods that were within the present legislative framework for providing financial assistance to intervenors at NEB proceedings. I would like to thank you for so quickly responding to this request.

In its report, the Board examined and provided comments on several options, including participant funding under the *Canadian Environmental Assessment Act*, financing a funding program through fees and charges under the *Financial Administration Act* (FAA), and a voluntary program by the pipeline industry that the NEB would assist through its toll and tariff-making powers.

The Board's recommended option, the "budget-based option", would use administrative provisions of the NEB and the FAA to deliver funding through a contributions program, the cost of which would be recovered using the NEB's existing cost-recovery powers.

The Board's study provides much food for thought. Given that the NEB was unable to consult with interested parties during its study, I believe that it would be appropriate to solicit the views of stakeholders before deciding whether to implement the Board's recommendation.

- Therefore, I authorize the Board to release its March 1996 study of Intervenor Funding Options. I would also ask the Board to seek the views of interested parties on its study and recommended option, and to report back to me on these views. As part of this process, I believe it would be appropriate for the Board to provide information to parties on the details of how the budget-based option would work in practice.

Independent of the Board's study, I have encouraged the natural gas pipeline and producer industries to examine voluntary measures for resolving issues affecting landowners and other parties who are affected by pipeline projects. In reporting to me the comments it receives on its study, I would ask the Board to indicate any alternatives suggested by interested parties that would modify or supplement the options the Board has identified.

Thank you again for providing me with the Board's study. I look forward to receiving a report from the Board on the reactions of interested parties.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Anne McLellan", with a long horizontal flourish extending to the right.

A. Anne McLellan



National Energy Board



Office national de l'énergie

CAI  
MT76  
-N53 -

August 12, 1996

To: All Interested Persons

Subject: Upcoming Public Hearing of Part VI Gas Export Licence Applications

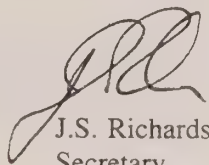
The National Energy Board released a letter, dated 26 July 1996, giving notice of its intention to hold a gas export hearing in November 1996, and calling for potential applicants to file completed applications by 29 August 1996.

It has come to the Board's attention that potential applicants may wish clarification on the types of information required under the new supply filing requirements contained in the Board's *Part VI (Oil and Gas) Regulations* dated 30 April 1996. The Board is drafting further instructions to assist applicants in complying with their requirements and plans to release the instructions in late August 1996.

The Board is therefore postponing the proposed gas export hearing to December 1996 and is extending the deadline for filing completed applications to 26 September 1996.

Following the 26 September 1996 filing deadline, the Board will issue its hearing order and directions on procedure for those applications which are to be included in the hearing.

Yours truly,

  
J.S. Richardson  
Secretary





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National Energy Board

Office national de l'énergie

File 185-A000-22

Dossier 185-A000-22

15 November 1996

Le 15 novembre 1996

**To:** Interested Parties

**Aux :** Parties intéressées

**Re:** National Energy Board Act Part VI  
(Oil and Gas) Regulations

**Objet:** Règlement de l'Office national de  
l'énergie concernatn le gaz et le pétrole (partie  
VI de la Loi)

Enclosed is a copy of the final version of the  
*National Energy Board Act Part VI (Oil and  
Gas) Regulations*.

Ci-joint vous trouverez une copie final du  
*Règlement de l'Office national de l'énergie  
concernant le gaz et le pétrole (partie VI de la  
Loi)*.

Le secrétaire

J. S. Richardson  
Secretary

Encl./p.j.







Registration  
SOR/96-244 30 April, 1996

# NATIONAL ENERGY BOARD ACT

## National Energy Board Act Part VI (Oil and Gas) Regulations

P.C. 1996-626 30 April, 1996

His Excellency the Governor General in Council, on the recommendation of the Minister of Natural Resources, pursuant to subsections 119.01(1)\* and 130(2) of the National Energy Board Act, is pleased hereby to make the annexed Regulations for carrying into effect the provisions of Division I of Part VI of the National Energy Board Act.

### REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF DIVISION I OF PART VI OF THE NATIONAL ENERGY BOARD ACT

#### SHORT TITLE

1. These Regulations may be cited as the *National Energy Board Act Part VI (Oil and Gas) Regulations*.

#### INTERPRETATION

2. In these Regulations,

"Act" means the *National Energy Board Act*; (*Loi*)

"heavy crude oil" means a substance that has a density greater than 875.7 kg/m<sup>3</sup> and is

- (a) oil, other than refined petroleum products,
- (b) a blend of oils, other than refined petroleum products, or
- (c) a blend of oils, other than refined petroleum products, with refined petroleum products; (*pétrole brut lourd*)

"licence" means a licence for the exportation or importation of oil or gas issued under Part VI of the Act; (*licence*)

"order" means an order authorizing the exportation, importation, exportation for subsequent importation or importation for subsequent exportation of gas or authorizing the exportation of oil that is issued by the Board under these Regulations; (*ordonnance*)

"refined petroleum products" means

- (a) oil recovered by the processing of oil sands,
- (b) gasoline-type fuels for use in internal combustion engines,
- (c) oil for use as a component in the blending of gasoline-type fuels referred to in paragraph (b),
- (d) middle distillates, including the products commercially known as kerosene, stove oil, diesel fuel, furnace oil, diesel oil, gas oil, distillate heating oil, engine distillates and Nos. 1, 2 and 3 fuel oils,

Enregistrement  
DORS/96-244 30 avril 1996

# LOI SUR L'OFFICE NATIONAL DE L'ÉNERGIE

## Règlement de l'Office national de l'énergie concernant le gaz et le pétrole (partie VI de la Loi)

C.P. 1996-626 30 avril 1996

Sur recommandation de la ministre des Ressources naturelles et en vertu des paragraphes 119.01(1)\* et 130(2) de la Loi sur l'Office national de l'énergie, il plaît à Son Excellence le Gouverneur général en conseil de prendre le Règlement d'application de la section I de la partie VI de la Loi sur l'Office national de l'énergie, ci-après.

### RÈGLEMENT D'APPLICATION DE LA SECTION I DE LA PARTIE VI DE LA LOI SUR L'OFFICE NATIONAL DE L'ÉNERGIE

#### TITRE ABRÉGÉ

1. *Règlement de l'Office national de l'énergie concernant le gaz et le pétrole (partie VI de la Loi)*.

#### DÉFINITIONS

2. Les définitions qui suivent s'appliquent au présent règlement.

« licence » Licence d'exportation ou d'importation de pétrole ou de gaz délivrée aux termes de la partie VI de la Loi. (*licence*)

« Loi » La *Loi sur l'Office national de l'énergie*. (*Act*)

« ordonnance » Ordonnance autorisant l'exportation de pétrole ou l'exportation, l'importation, l'exportation en vue de l'importation subséquente ou l'importation en vue de l'exportation subséquente de gaz, délivrée par l'Office aux termes du présent règlement. (*order*)

« pétrole brut lourd » L'une ou l'autre des substances suivantes ayant une densité supérieure à 875,7 kg/m<sup>3</sup> :

- a) le pétrole, à l'exclusion des produits pétroliers raffinés;
- b) un mélange de pétroles ne comprenant pas de produits pétroliers raffinés;
- c) un mélange de pétroles, à l'exclusion des produits pétroliers raffinés, avec des produits pétroliers raffinés. (*heavy crude oil*)

« produits pétroliers raffinés »

- a) Le pétrole récupéré par le traitement de sables pétroliers;
- b) les carburants du type essence destinés aux moteurs à combustion interne;
- c) le pétrole destiné à servir de composant dans les mélanges de carburants du type essence visés à l'alinéa b);
- d) les distillats moyens, y compris les produits connus commercialement sous les noms de kérosène, combustible

\* S.C. 1990, c. 7, s. 34

\* L.C. 1990, ch. 7, art. 34

(e) heavy fuel oils, including Nos. 4, 5 and 6 fuel oils, bunker "C" oil, "C" grade oil, residual fuel oil, heavy bunker oil, intermediate and thin bunker fuels and any blend of heavy fuel oils, and

(f) partially processed oil, whether commingled with crude oil or equivalent hydrocarbons or not. (*produits pétroliers raffinés*)

à usage domestique, carburant diesel, huile de chauffe, combustible diesel, gas-oil, huile de chauffe distillée, distillats pour moteur et mazouts n° 1, 2 et 3;

e) les mazouts lourds, y compris les mazouts n° 4, 5 et 6, le carburant de soude « C », le pétrole de catégorie « C », le mazout résiduel, les carburants de soude lourd, moyen et léger et tout mélange de mazouts lourds;

f) le pétrole partiellement traité, mélangé ou non à du pétrole brut ou à des hydrocarbures équivalents. (*refined petroleum products*)

## PART I

### GENERAL

#### *Procedures for Applying For and Issuing Licences and Orders*

3. In addition to the requirements of these Regulations, Part I of the *National Energy Board Rules of Practice and Procedure, 1995* applies in respect of the procedures to be followed in applying for and issuing a licence or an order.

#### *Approval of Licences*

4. The approval of the Governor in Council is required prior to the issuance of a licence for

- (a) the exportation of gas;
- (b) the importation of gas;
- (c) the exportation of heavy crude oil; or
- (d) the exportation of oil other than heavy crude oil.

#### *Conditions of Orders*

5. Every order is subject to the condition that the holder of the order must comply with

- (a) the provisions of the Act and the regulations in force at the date of the issuing of the order and as subsequently enacted, made or amended; and
- (b) every order made under the authority of the Act.

#### *Suspension and Revocation of Orders*

6. (1) Subject to subsection (2), the Board may

- (a) suspend an order if any term or condition of the order has not been complied with or has been contravened; or
- (b) revoke an order if the holder of the order refuses to comply with any term or condition of the order, or does not comply with any conditions imposed for the lifting of a suspension.

(2) Before suspending or revoking an order, the Board shall send a notice to the holder of the order setting out the term or condition of the order that it is alleged the holder has not complied with, has contravened or has refused to comply with, and shall afford the person an opportunity to be heard.

## PARTIE I

### DISPOSITIONS GÉNÉRALES

#### *Modalités de présentation de demandes et de délivrance des licences et des ordonnances*

3. En plus des exigences du présent règlement, la partie I des *Règles de pratique et de procédure de l'Office national de l'énergie (1995)* s'applique aux modalités de présentation des demandes et de délivrance des licences et des ordonnances.

#### *Approbation des licences*

4. L'approbation préalable du gouverneur en conseil est requise pour la délivrance des licences suivantes :

- a) licence d'exportation de gaz;
- b) licence d'importation de gaz;
- c) licence d'exportation de pétrole brut lourd;
- d) licence d'exportation de pétrole, autre que du pétrole brut lourd.

#### *Conditions des ordonnances*

5. Constitue une condition de toute ordonnance l'observation par son titulaire :

- a) des dispositions de la Loi et de ses règlements qui sont en vigueur à la date de la délivrance de l'ordonnance et par la suite;
- b) de toute ordonnance prise ou rendue sous le régime de la Loi.

#### *Suspension et annulation des ordonnances*

6. (1) Sous réserve du paragraphe (2), l'Office peut :

- a) suspendre une ordonnance lorsque ses conditions n'ont pas été respectées;
- b) annuler une ordonnance lorsque son titulaire refuse d'en respecter les conditions ou ne respecte pas les conditions imposées pour la levée de la suspension.

(2) Avant de suspendre ou d'annuler une ordonnance, l'Office avise le titulaire de l'ordonnance des faits reprochés et lui donne la possibilité de se faire entendre.



(3) Notwithstanding subsections (1) and (2), the Board may suspend or revoke an order on the application or with the consent of the holder of the order.

#### *Inspections*

7. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in order to carry out an inspection in connection with the exportation or importation of oil or gas, at any reasonable time

(a) enter any premises in which oil or gas is produced or recovered for export from Canada, is exported from Canada or is imported into Canada, or any place of business related to such production or recovery;

(b) inspect any instruments, devices, plant, equipment, books, records or accounts or any other thing used for or in connection with the exportation or importation of oil or gas; and

(c) conduct any tests that are necessary in order to carry out the inspection.

(2) A person authorized by the Board to exercise the powers referred to in subsection (1) shall produce the authorization, when requested to do so during the exercise of those powers.

(3) Every person who is the operator of or in charge of any premises or any thing referred to in subsection (1) shall permit a member of the Board or a person authorized by the Board to exercise the powers referred to in that subsection and shall assist the member or person in exercising those powers.

#### *Units of Measurement*

8. (1) For the purposes of these Regulations, all gas shall be measured in units of measurement that meet the requirements of the *Electricity and Gas Inspection Act*, and

(a) in the case of volume measurement, shall be expressed as the number of cubic metres the gas would occupy at standard conditions, namely, at a temperature of 15°C and at an absolute pressure of 101,325 kPa; and

(b) in the case of thermal measurement, shall be computed as the number of joules on a dry basis where dry gas has a moisture content of less than 110 mg/m<sup>3</sup>.

(2) Where volume is measured under conditions of temperature and pressure other than the standard conditions described in paragraph (1)(a), the volume shall be converted to the equivalent under the standard conditions, in accordance with the Ideal Gas Laws, and shall be corrected for deviations from the Ideal Gas Laws in accordance with subsection (3), where the amount of the deviation exceeds one per cent.

(3) Correction for deviation from the Ideal Gas Laws shall be based on the tables published in American Gas Association (AGA) Report No. 3, *Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids*, as amended from time to time.

(4) Notwithstanding subsections (1) to (3), propane, butanes and ethane may be measured in liquid form, in which case the volume measurement shall be computed in cubic metres.

9. For the purposes of these Regulations, the units of measurement of liquids, other than liquids determined by the Board to be cryogenic liquids, shall be computed at a temperature of 15°C.

(3) Malgré les paragraphes (1) et (2), l'Office peut suspendre ou annuler une ordonnance à la demande de son titulaire ou avec son consentement.

#### *Inspections*

7. (1) Un membre de l'Office ou toute personne que l'Office a autorisée par écrit à cet effet peut, aux fins de l'inspection de tout ce qui sert ou se rattache à l'exportation ou à l'importation du pétrole ou du gaz, à toute heure convenable :

a) pénétrer dans les lieux où le pétrole ou le gaz sont soit produits ou récupérés en vue de leur exportation du Canada, soit exportés du Canada, soit importés au Canada, ou dans tout établissement lié à cette production ou récupération;

b) inspecter les instruments, les appareils, les usines, le matériel, les livres, les registres, les comptes ou toute autre chose servant ou se rattachant à l'exportation ou à l'importation du pétrole ou du gaz;

c) procéder aux essais nécessaires aux fins de l'inspection.

(2) La personne autorisée par l'Office à exercer les pouvoirs visés au paragraphe (1) doit, pendant l'exercice de ces pouvoirs, produire sur demande l'autorisation qu'elle détient.

(3) Toute personne qui est l'exploitant ou qui a la charge des lieux ou de toute chose visés au paragraphe (1) doit permettre à un membre de l'Office ou à la personne autorisée par ce dernier d'exercer les pouvoirs conférés par ce paragraphe et l'aider dans l'exercice de ces pouvoirs.

#### *Unités de mesure*

8. (1) Pour l'application du présent règlement, le gaz est mesuré en unités de mesure conformes à la *Loi sur l'inspection de l'électricité et du gaz* et :

a) la mesure volumétrique du gaz est exprimée en nombre de mètres cubes que le gaz occuperait dans des conditions normales, c'est-à-dire à une température de 15 °C et à une pression absolue de 101,325 kPa;

b) la mesure thermique du gaz est exprimée en nombre de joules sur une base sèche lorsque le gaz sec a une teneur en humidité de moins de 110 mg/m<sup>3</sup>.

(2) Lorsque la mesure volumétrique du gaz s'effectue dans des conditions de température et de pression différentes des conditions normales visées à l'alinéa (1)a), le volume obtenu est converti à l'équivalent dans les conditions normales, conformément à la théorie des gaz parfaits et est corrigé conformément au paragraphe (3) pour tenir compte de tout écart par rapport à cette théorie qui est supérieur à un pour cent.

(3) La correction de l'écart par rapport à la théorie des gaz parfaits se fait selon les tables publiées dans le rapport n° 3 de l'American Gas Association (AGA), intitulé *Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids*, avec ses modifications successives.

(4) Malgré les paragraphes (1) à (3), le propane, les butanes et l'éthane peuvent être mesurés sous forme liquide, auquel cas leur mesure volumétrique est établie en mètres cubes.

9. Pour l'application du présent règlement, le mesurage des liquides, sauf ceux que l'Office considère comme des liquides cryogéniques, est calculé à une température de 15 °C.

## PART II

## GAS

## DIVISION I

## GAS OTHER THAN PROPANE, BUTANES AND ETHANE

## Application

10. This Division applies to gas other than propane, butanes and ethane.

## Exemption

11. Ethylene and propylene are exempt from the operation of Part VI of the Act.

Information to be Furnished by Applicants for  
Licences for Exportation

12. An applicant for a licence for the exportation of gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

(a) the terms that the applicant is requesting for the licence, including

- (i) the duration of the licence,
- (ii) the maximum daily, annual and term quantities of gas proposed to be exported,
- (iii) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions, and
- (iv) the points of exportation of the gas from Canada;

(b) information respecting the applicant's gas supply supporting the proposed exportation, whether contractually dedicated or undedicated, including

- (i) a summary of the quantities of gas under contract to or owned by the applicant, including daily and annual volumes, reserves and the termination date of every such contract, and
- (ii) a copy of each pro forma contract for each type of gas purchase contract;

(c) information respecting the applicant's gas market, including

- (i) details of the applicant's gas export sale, including
  - (A) a copy of every gas export sales contract for the proposed exportation,
  - (B) a detailed summary of the terms and conditions of every such contract, including the details of the matters referred to in Schedule I, substantially in the form set out therein, and
  - (C) the name of a person to whom questions respecting the details of every such contract may be directed, and

(ii) a description of the export market to be served by the proposed exportation;

(d) where the gas proposed to be exported is from a gas supply other than a contractually dedicated pool, field or area, a gas supply and demand balance for the reserves supporting the application, on both an aggregate and an

## PARTIE II

## GAZ

## SECTION I

## GAZ AUTRES QUE LE PROPANE, LES BUTANES ET L'ÉTHANE

## Application

10. La présente section s'applique aux gaz autres que le propane, les butanes et l'éthane.

## Exemption

11. La partie VI de la Loi ne s'applique pas à l'éthylène et au propylène.

Renseignements à fournir par le demandeur  
d'une licence d'exportation

12. Le demandeur d'une licence d'exportation de gaz fournit à l'Office les renseignements nécessaires pour lui permettre de prendre une décision, notamment, sauf autorisation contraire de l'Office :

a) les conditions qu'il souhaite pour la licence, y compris :

- (i) la durée de validité de la licence,
- (ii) les quantités journalières et annuelles maximales et la quantité globale de gaz qu'il projette d'exporter,
- (iii) le cas échéant, les écarts admissibles nécessaires en prévision de conditions opérationnelles temporaires,
- (iv) les points d'exportation de gaz du Canada;

b) des renseignements sur son approvisionnement en gaz à l'appui des exportations proposées, soit affecté par contrat soit non affecté, y compris :

- (i) un sommaire des quantités de gaz visées par contrat d'approvisionnement conclu par le demandeur ou lui appartenant, y compris les volumes journaliers et annuels, les réserves et la date d'expiration de chaque contrat en question,
- (ii) une copie de chaque contrat pro forma pour chaque type de contrat d'achat de gaz;

c) des renseignements sur son marché de gaz, y compris :

(i) des précisions sur sa vente de gaz à l'exportation, notamment :

- (A) une copie de chaque contrat de vente à l'exportation pour les exportations proposées,
- (B) un résumé détaillé des modalités de chaque contrat en question qui comprend les renseignements exigés à l'annexe I, présentés dans une forme similaire à celle-ci,
- (C) le nom de la personne pouvant répondre à d'éventuelles questions sur tout contrat de ce genre,

(ii) une description du marché d'exportation qui sera desservi par les exportations proposées;

d) si le gaz qu'il projette d'exporter provient d'une source d'approvisionnement autre qu'un gisement, un champ ou un secteur affecté par contrat, un bilan global et un bilan annuel de l'approvisionnement visant les réserves à l'appui de la demande pour la durée des exportations proposées, qui donne les engagements contractuels fermes étayés par ces réserves;



annual basis for the duration of the proposed exportation, identifying all firm contractual commitments supported by those reserves;

(e) details of the transportation arrangements pertaining to the proposed exportation, including

- (i) the details and status of all contractual arrangements for the movement of the gas in and outside Canada,
- (ii) a copy of every transportation contract for the movement of the gas in Canada, and
- (iii) a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the gas to market;

(f) information respecting the potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects;

(g) an assessment of the impact of the proposed exportation on Canadian energy and natural gas markets to determine whether Canadians are likely to have difficulty in meeting their energy requirements at fair market prices;

(h) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to

- (i) the removal of gas from a province,
- (ii) the importation of gas into the country of destination,
- (iii) transportation services,
- (iv) tariffs and tolls,
- (v) facilities,
- (vi) environmental reviews, and
- (vii) contractual arrangements necessary for the exportation of gas; and

(i) a status sheet summarizing the contractual arrangements and regulatory approvals and authorizations, substantially in the form set out in Schedule II.

#### Information to be Furnished by Applicants for Licences for Importation

13. An applicant for a licence for the importation of gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

(a) the terms that the applicant is requesting for the licence, including

- (i) the duration of the licence,
- (ii) the maximum daily, annual and term quantities of gas proposed to be imported,
- (iii) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions, and
- (iv) the points of importation of the gas into Canada;

(b) information respecting the applicant's gas supply supporting the proposed importation, including

- (i) a summary of the quantities of gas under every gas purchase contract, including daily and annual volumes, reserves and the termination date of every such contract, and
- (ii) a copy of each pro forma contract for each type of gas purchase contract;

e) des précisions sur les arrangements de transport propres aux exportations proposées, y compris :

- (i) le détail de toutes les ententes contractuelles concernant l'acheminement de gaz à l'intérieur et à l'extérieur du Canada, ainsi que des précisions sur l'état de ces ententes,
- (ii) une copie de chaque contrat de transport concernant l'acheminement de gaz au Canada,
- (iii) une description des installations de collecte, de stockage et de transport ainsi que des nouvelles installations requises, à l'intérieur et à l'extérieur du Canada, pour l'acheminement de gaz au marché;

f) des renseignements sur les incidences environnementales éventuelles des exportations proposées et les répercussions sociales directement liées à ces incidences;

g) une évaluation de l'incidence des exportations proposées sur les marchés de l'énergie et du gaz naturel au Canada, visant à établir si les Canadiens peuvent avoir de la difficulté à satisfaire leurs besoins en énergie à une juste valeur marchande;

h) une copie de chaque approbation ou autorisation émanant des gouvernements fédéral, d'une province ou d'un État qui porte sur les éléments suivants, ou des précisions sur l'état de cette approbation ou autorisation :

- (i) l'enlèvement de gaz d'une province,
- (ii) l'importation de gaz dans le pays de destination,
- (iii) les services de transport,
- (iv) les tarifs et les droits,
- (v) les installations,
- (vi) les examens environnementaux,
- (vii) les ententes contractuelles nécessaires pour l'exportation de gaz;

i) un rapport sur l'état des ententes contractuelles et des approbations et autorisations réglementaires, conforme en substance au modèle figurant à l'annexe II.

#### Renseignements à fournir par le demandeur d'une licence d'importation

13. Le demandeur d'une licence d'importation de gaz fournit à l'Office les renseignements nécessaires pour lui permettre de prendre une décision, notamment, sauf autorisation contraire de l'Office :

a) les conditions qu'il souhaite pour la licence, y compris :

- (i) la durée de validité de la licence,
- (ii) les quantités journalières et annuelles maximales et la quantité globale de gaz qu'il projette d'importer,
- (iii) le cas échéant, les écarts admissibles nécessaires en prévision de conditions opérationnelles temporaires,
- (iv) les points d'importation de gaz au Canada;

b) des renseignements sur son approvisionnement en gaz à l'appui des importations proposées, y compris :

- (i) un sommaire des quantités de gaz achetées par contrat, y compris les volumes journaliers et annuels, les réserves et la date d'expiration de chaque contrat en question,
- (ii) une copie de chaque contrat pro forma pour chaque type de contrat d'achat de gaz;

- (c) information respecting the applicant's gas market, including
- (i) details of the applicant's gas import purchase, including
    - (A) a copy of every gas import purchase contract for the proposed importation, and
    - (B) a detailed summary of the terms and conditions of every such contract, and
  - (ii) a description of the market to be served by the proposed importation;
- (d) details of the transportation arrangements pertaining to the proposed importation, including
- (i) the details and status of all contractual arrangements for the movement of the gas in and outside Canada,
  - (ii) a copy of every transportation contract for the movement of the gas in Canada, and
  - (iii) a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the gas to market;
- (e) information respecting the potential environmental effects of the proposed importation and any social effects that would be directly related to those environmental effects; and
- (f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to
- (i) the removal of gas from the country of production,
  - (ii) the importation of gas into a province,
  - (iii) transportation services,
  - (iv) tariffs and tolls,
  - (v) facilities,
  - (vi) environmental reviews, and
  - (vii) contractual arrangements necessary for the importation of gas.

#### Terms and Conditions of Licences for Exportation and Importation

14. The following terms and conditions may be included in any licence for the exportation or importation of gas:

- (a) the duration of the licence;
- (b) the period within which the exportation or importation of the gas must commence in order for the licence to remain in effect;
- (c) the term quantities of gas that may be exported or imported;
- (d) the maximum quantities of gas that may be exported or imported, for any daily, monthly, annual or other appropriate period;
- (e) if applicable, any tolerance levels that are necessary to accommodate temporary operating conditions;
- (f) the points of exportation of the gas from Canada or of importation of the gas into Canada; and
- (g) the environmental requirements that must be met for the licence to take or remain in effect.

- c) des renseignements sur son marché de gaz, y compris :
- (i) des précisions sur son achat de gaz d'importation, notamment :
    - (A) une copie de chaque contrat d'achat de gaz d'importation se rapportant aux importations proposées,
    - (B) un résumé détaillé des modalités de chaque contrat en question,
  - (ii) une description du marché qui sera desservi par les importations proposées;
- d) des précisions sur les arrangements de transport propres aux importations proposées, y compris :
- (i) le détail de toutes les ententes contractuelles concernant l'acheminement de gaz à l'intérieur et à l'extérieur du Canada, ainsi que des précisions sur l'état de ces ententes,
  - (ii) une copie de chaque contrat de transport concernant l'acheminement de gaz au Canada,
  - (iii) une description des installations de collecte, de stockage et de transport ainsi que des nouvelles installations requises, à l'intérieur et à l'extérieur du Canada, pour l'acheminement de gaz au marché;
- e) des renseignements sur les incidences environnementales éventuelles des importations proposées et les répercussions sociales directement liées à ces incidences;
- f) une copie de chaque approbation ou autorisation émanant des gouvernements fédéral, d'une province ou d'un État qui porte sur les éléments suivants, ou des précisions sur l'état de cette approbation ou autorisation :
- (i) l'enlèvement de gaz du pays producteur,
  - (ii) l'importation de gaz dans une province,
  - (iii) les services de transport,
  - (iv) les tarifs et les droits,
  - (v) les installations,
  - (vi) les examens environnementaux,
  - (vii) les ententes contractuelles nécessaires pour l'importation de gaz.

#### Conditions des licences d'exportation et d'importation

14. La licence d'exportation ou d'importation de gaz peut être assortie des conditions suivantes :

- a) la durée de validité de la licence;
- b) le délai dans lequel les importations ou les exportations de gaz doivent commencer pour que la licence demeure en vigueur;
- c) les quantités globales de gaz qui peuvent être exportées ou importées;
- d) les quantités maximales de gaz qui peuvent être exportées ou importées par jour, par mois, par année ou pendant toute autre période visée;
- e) le cas échéant, les écarts admissibles nécessaires en prévision de conditions opérationnelles temporaires;
- f) les points d'exportation de gaz du Canada ou d'importation de gaz au Canada;
- g) les exigences environnementales à respecter pour que la licence prenne effet ou demeure en vigueur.



**Orders for Exportation or Importation**

15. Where the Board determines that an application for an order for the exportation or importation of gas contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person

- (a) to export gas
  - (i) for a period not exceeding two years, or
  - (ii) for a period exceeding two years but not exceeding 20 years, in quantities of not more than 30,000 m<sup>3</sup> per day;
- (b) to import gas
  - (i) for a period not exceeding two years, or
  - (ii) for a period exceeding two years but not exceeding 20 years, in quantities of not more than 30,000 m<sup>3</sup> per day; or
- (c) to export gas for subsequent import or to import gas for subsequent export for a period not exceeding 25 years.

**Terms and Conditions of Orders for Exportation or Importation**

16. The following terms and conditions may be included in any order issued under section 15:

- (a) the duration of the order;
- (b) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions;
- (c) the requirement that the holder of the order must file with the Board, within a specified period, evidence of each approval or authorization of a federal, provincial or state government pertaining to
  - (i) the removal of gas from a province or the country of production,
  - (ii) the importation of gas into the country of destination or into a province,
  - (iii) transportation services,
  - (iv) tariffs and tolls,
  - (v) facilities,
  - (vi) environmental reviews, and
  - (vii) contractual arrangements necessary for the exportation or importation of gas;
- (d) where the order authorizes the exportation of gas,
  - (i) the maximum daily, monthly, annual and term quantities of gas that may be exported,
  - (ii) the points of exportation of the gas from Canada,
  - (iii) the period within which the exportation of gas must commence in order for the order to remain in effect, and
  - (iv) the exportation of gas on a firm or interruptible basis;
- (e) where the order authorizes the importation of gas,
  - (i) the maximum daily, monthly, annual and term quantities of gas that may be imported,
  - (ii) the points of importation of the gas into Canada,
  - (iii) the period within which the importation of gas must commence in order for the order to remain in effect, and
  - (iv) the importation of gas on a firm or interruptible basis;

**Ordonnances visant l'exportation et l'importation**

15. L'Office peut, s'il juge qu'une demande visant à obtenir une ordonnance autorisant l'importation ou l'exportation de gaz contient les renseignements nécessaires pour lui permettre d'en arriver à une décision, délivrer une ordonnance autorisant la personne, selon le cas :

- a) à exporter du gaz :
  - (i) soit pendant une période d'au plus deux ans,
  - (ii) soit pendant une période supérieure à deux ans, mais d'au plus 20 ans, en quantités n'excédant pas 30 000 m<sup>3</sup> par jour;
- b) à importer du gaz :
  - (i) soit pendant une période d'au plus deux ans,
  - (ii) soit pendant une période supérieure à deux ans, mais d'au plus 20 ans, en quantités n'excédant pas 30 000 m<sup>3</sup> par jour;
- c) à exporter du gaz en vue de son importation subséquente ou à importer du gaz en vue de son exportation subséquente, pendant une période d'au plus 25 ans.

**Conditions des ordonnances visant l'exportation ou l'importation**

16. L'ordonnance visée à l'article 15 peut être assortie des conditions suivantes :

- a) la durée de validité de l'ordonnance;
- b) le cas échéant, les écarts admissibles nécessaires en prévision de conditions opérationnelles temporaires;
- c) l'obligation pour son titulaire de déposer auprès de l'Office, dans un délai déterminé, la preuve de l'obtention de chaque approbation ou autorisation émanant des gouvernements fédéral, d'une province ou d'un État qui porte sur les éléments suivants :
  - (i) l'enlèvement de gaz d'une province ou du pays producteur,
  - (ii) l'importation de gaz dans le pays de destination ou dans une province,
  - (iii) les services de transport,
  - (iv) les tarifs et les droits,
  - (v) les installations,
  - (vi) les examens environnementaux,
  - (vii) les ententes contractuelles nécessaires pour l'exportation ou l'importation de gaz;
- d) si l'ordonnance autorise l'exportation de gaz :
  - (i) les quantités journalières, mensuelles et annuelles maximales et la quantité globale de gaz qui peuvent être exportées,
  - (ii) les points d'exportation de gaz du Canada,
  - (iii) le délai dans lequel les exportations de gaz doivent commencer pour que l'ordonnance demeure en vigueur,
  - (iv) l'exportation de gaz selon un service garanti ou interruptible;
- e) si l'ordonnance autorise l'importation de gaz :
  - (i) les quantités journalières, mensuelles et annuelles maximales et la quantité globale de gaz qui peuvent être importées,
  - (ii) les points d'importation de gaz au Canada,

(f) where the order authorizes the exportation of gas for subsequent importation,

(i) the maximum daily, monthly, annual and term quantities of gas that may be exported and subsequently imported,

(ii) the points of exportation and subsequent importation of gas,

(iii) the period within which the exportation and subsequent importation of gas must commence in order for the order to remain in effect,

(iv) the exportation and subsequent importation of gas on a firm or interruptible basis,

(v) the balancing of quantities to be exported and subsequently imported on a thermally equivalent basis, and

(vi) the injection, storage and withdrawal of gas from storage facilities;

(g) where the order authorizes the importation of gas for subsequent exportation,

(i) the maximum daily, monthly, annual and term quantities of gas that may be imported and subsequently exported,

(ii) the points of importation and subsequent exportation of gas,

(iii) the period within which the importation and subsequent exportation of gas must commence in order for the order to remain in effect,

(iv) the importation and subsequent exportation of gas on a firm or interruptible basis,

(v) the balancing of quantities to be imported and subsequently exported on a thermally equivalent basis, and

(vi) the injection, storage and withdrawal of gas from storage facilities; and

(h) the environmental requirements that must be met for the order to take or remain in effect.

(iii) le délai dans lequel les importations de gaz doivent commencer pour que l'ordonnance demeure en vigueur,

(iv) l'importation de gaz selon un service garanti ou interruptible;

f) si l'ordonnance autorise l'exportation de gaz en vue de son importation subséquente :

(i) les quantités journalières, mensuelles et annuelles maximales et la quantité globale de gaz qui peuvent être exportées et subséquemment importées,

(ii) les points d'exportation et d'importation subséquente de gaz,

(iii) le délai dans lequel les exportations et les importations subséquentes de gaz doivent commencer pour que l'ordonnance demeure en vigueur,

(iv) l'exportation et l'importation subséquente de gaz selon un service garanti ou interruptible,

(v) l'équilibre, en fait d'équivalence thermique, entre les quantités devant être exportées et subséquemment importées,

(vi) l'injection et le stockage de gaz dans des installations de stockage et son retrait de ces installations;

g) si l'ordonnance autorise l'importation de gaz en vue de son exportation subséquente :

(i) les quantités journalières, mensuelles et annuelles maximales et la quantité globale de gaz qui peuvent être importées et subséquemment exportées,

(ii) les points d'importation et d'exportation subséquente de gaz,

(iii) le délai dans lequel les importations et les exportations subséquentes de gaz doivent commencer pour que l'ordonnance demeure en vigueur,

(iv) l'importation et l'exportation subséquente de gaz selon un service garanti ou interruptible,

(v) l'équilibre, en fait d'équivalence thermique, entre les quantités devant être importées et subséquemment exportées,

(vi) l'injection et le stockage de gaz dans des installations de stockage et son retrait de ces installations;

h) les exigences environnementales à respecter pour que l'ordonnance prenne effet ou demeure en vigueur.

#### Amendments to Gas Export Sales Contracts and Gas Import Purchase Contracts

17. (1) In this section,

"gas export sales contract" means a contract, other than a third party contract, for the sale of gas between

(a) the holder of a licence and the importer,

(b) the holder of a licence and the vendor, where the holder or an affiliate or subsidiary of the holder is also the importer, or

(c) the holder of a licence and the importer and between the holder and the vendor, where the holder is an affiliate or subsidiary of the importer and of the vendor; (*contrat de vente de gaz à l'exportation*)

"holder of a licence" means the person who holds a licence for the exportation of gas; (*titulaire d'une licence*)

"importer" means the importer of gas in the country of destination of the gas; (*importateur*)

#### Modification des contrats de vente de gaz à l'exportation et des contrats d'achat de gaz d'importation

17. (1) Les définitions qui suivent s'appliquent au présent article.

« contrat avec un tiers » Contrat prévoyant la vente à un tiers, par le titulaire d'une licence ou l'importateur du gaz, des quantités de gaz visées par un contrat de vente de gaz à l'exportation, lorsque les conditions suivantes sont réunies :

a) les ventes au tiers s'étendent sur une période de moins de deux ans;

b) l'importateur est matériellement incapable d'accepter le gaz pour son propre marché;

c) le contrat de vente de gaz à l'exportation autorise expressément la vente du gaz à un tiers. (*third party contract*)



"third party contract" means a contract for the sale of gas contracted, under a gas export sales contract to a third party, by the holder of a licence or the importer of the gas, where

(a) the sale to the third party is for a term of less than two years,

(b) the importer is physically unable to take the gas for its market, and

(c) the gas export sales contract contains provisions allowing for the sale of the gas to a third party; (*contrat avec un tiers*)

"vendor" means the person from whom gas is purchased. (*vendeur*)

(2) Unless otherwise authorized by the Board, the holder of a licence shall, within 30 days after execution, file with the Board a copy of every gas export sales contract pertaining to the exportation of gas authorized by the licence and of every amendment, agreement or change pertaining thereto.

(3) The holder of a licence shall include with the copy filed pursuant to subsection (2) a detailed summary of every gas export sales contract and of every amendment, agreement or change pertaining thereto.

(4) The holder of a licence shall not export or cause or permit the exportation of gas under the licence, pursuant to or in accordance with any gas export sales contract, or any amendment, agreement or change pertaining thereto, unless that contract, amendment, agreement or change has been approved by the Board in accordance with subsection (5).

(5) The Board may approve a contract, amendment, agreement or change where the Board determines that gas will continue to be exported under the licence.

(6) On request of the Board, the holder of a licence shall file with the Board, within 30 days after execution, a copy of every contract, other than a gas export sales contract, pertaining to the exportation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(7) The holder of a licence shall, within 30 days after execution, file with the Board a copy of every third party contract pertaining to the exportation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

18. (1) In this section,

"exporter" means the exporter of gas in the country of production of the gas; (*exportateur*)

"gas import purchase contract" means a contract, other than a third party contract, for the purchase of gas between

(a) the holder of a licence and the exporter, or

(b) the holder of a licence and the resale customer in Canada, where the holder or an affiliate or subsidiary of the holder is also the exporter; (*contrat d'achat de gaz d'importation*)

"holder of a licence" means the person who holds a licence for the importation of gas; (*titulaire d'une licence*)

« contrat de vente de gaz à l'exportation » Contrat de vente de gaz, autre qu'un contrat avec un tiers, conclu :

a) entre le titulaire d'une licence et l'importateur;

b) dans le cas où le titulaire, ou son affilié ou sa filiale, est également l'importateur, entre le titulaire et le vendeur;

c) dans le cas où le titulaire est un affilié ou une filiale à la fois de l'importateur et du vendeur, entre le titulaire et l'importateur et entre le titulaire et le vendeur. (*gas export sales contract*)

« importateur » Importateur de gaz dans le pays de destination du gaz. (*importer*)

« titulaire d'une licence » Le titulaire d'une licence d'exportation de gaz. (*holder of a licence*)

« vendeur » La personne de qui le gaz est acheté. (*vendor*)

(2) Sauf autorisation contraire de l'Office, le titulaire d'une licence dépose auprès de l'Office une copie de chaque contrat de vente de gaz à l'exportation se rapportant aux exportations de gaz autorisées par la licence et de chaque modification, entente ou changement s'y rapportant, dans les trente jours qui en suivent la signature.

(3) Le titulaire d'une licence annexe à la copie qu'il dépose conformément au paragraphe (2) un résumé détaillé de chaque contrat de vente de gaz à l'exportation et de chaque modification, entente ou changement s'y rapportant.

(4) Le titulaire d'une licence ne peut exporter, faire exporter ni permettre l'exportation du gaz visé par la licence aux termes d'un contrat de vente de gaz à l'exportation, ou d'une modification, d'une entente ou d'un changement s'y rapportant, à moins que l'Office n'ait approuvé le contrat, la modification, l'entente ou le changement conformément au paragraphe (5).

(5) L'Office peut approuver un contrat, une modification, une entente ou un changement, lorsqu'il détermine que le gaz continuera à être exporté aux termes de la licence.

(6) À la demande de l'Office, le titulaire d'une licence dépose auprès de l'Office une copie de chaque contrat ayant trait aux exportations de gaz autorisées par la licence, autre qu'un contrat de vente de gaz à l'exportation, et de chaque modification, entente ou changement s'y rapportant, dans les trente jours qui en suivent la signature.

(7) Le titulaire d'une licence dépose auprès de l'Office une copie de chaque contrat avec un tiers se rapportant aux exportations de gaz autorisées par la licence et de chaque modification, entente ou changement s'y rapportant, dans les trente jours qui en suivent la signature.

18. (1) Les définitions qui suivent s'appliquent au présent article.

« contrat avec un tiers » Contrat prévoyant la vente à un tiers, par le titulaire d'une licence ou l'exportateur du gaz, des quantités de gaz visées par un contrat d'achat de gaz d'importation, lorsque les conditions suivantes sont réunies :

a) les ventes au tiers s'étendent sur une période de moins de deux ans;

b) le titulaire est matériellement incapable d'accepter le gaz pour son propre marché;

c) le contrat d'achat de gaz d'importation autorise expressément la vente du gaz à un tiers. (*third party contract*)

"third party contract" means a contract for the sale of gas contracted, under a gas import purchase contract to a third party, by the holder of the licence or by the exporter of the gas, where

- (a) the sale to the third party is for a term of less than two years,
- (b) the holder of the licence is physically unable to take the gas for its market, and
- (c) the gas import purchase contract contains provisions allowing for the sale of the gas to a third party. (*contrat avec un tiers*)

(2) Unless otherwise authorized by the Board, the holder of a licence shall, within 30 days after execution, file with the Board a copy of every gas import purchase contract pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(3) The holder of a licence shall include, with the copy filed pursuant to subsection (2), a detailed summary of every gas import purchase contract and of every amendment, agreement or change pertaining thereto.

(4) The holder of a licence shall not import or cause or permit the importation of gas under the licence, pursuant to or in accordance with any gas import purchase contract, or any amendment, agreement or change pertaining thereto, unless that contract, amendment, agreement or change has been approved by the Board in accordance with subsection (5).

(5) The Board may approve a contract, amendment, agreement or change where the Board determines that gas will continue to be imported under the licence.

(6) On request of the Board, the holder of a licence shall file with the Board, within 30 days after execution, a copy of every contract, other than a gas import purchase contract, pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

(7) The holder of a licence shall, within 30 days after execution, file with the Board a copy of every third party contract pertaining to the importation of gas authorized by the licence and every amendment, agreement or change pertaining thereto.

## DIVISION II

### PROPANE, BUTANES AND ETHANE

#### Exemption

19. The following transactions are exempt from the operation of Part VI of the Act:

- (a) the importation of any propane, butanes or ethane;
- (b) the exportation of any propane, butanes or ethane, where
  - (i) the exportation is for subsequent import, or
  - (ii) the propane, butanes or ethane have previously been imported into Canada; and
- (c) the exportation of any propane where the propane is carried by motor vehicle in their own tanks for their consumption.

« contrat d'achat de gaz d'importation » Contrat d'achat de gaz, autre qu'un contrat avec un tiers, conclu :

- a) entre le titulaire d'une licence et l'exportateur;
- b) dans le cas où le titulaire, ou son affilié ou sa filiale, est également l'exportateur, entre le titulaire et le client canadien auquel le gaz est revendu. (*gas import purchase contract*)

« exportateur » Exportateur de gaz dans le pays producteur de gaz. (*exporter*)

« titulaire d'une licence » Le titulaire d'une licence d'importation de gaz. (*holder of a licence*)

(2) Sauf autorisation contraire de l'Office, le titulaire d'une licence dépose auprès de l'Office une copie de chaque contrat d'achat de gaz d'importation se rapportant aux importations de gaz autorisées par la licence et de chaque modification, entente ou changement s'y rapportant, dans les trente jours qui en suivent la signature.

(3) Le titulaire d'une licence annexe à la copie qu'il dépose conformément au paragraphe (2) un résumé détaillé de chaque contrat d'achat de gaz d'importation et de chaque modification, entente ou changement s'y rapportant.

(4) Le titulaire d'une licence ne peut importer, faire importer ni permettre l'importation du gaz visé par la licence aux termes d'un contrat d'achat de gaz d'importation, ou d'une modification, d'une entente ou d'un changement s'y rapportant, à moins que l'Office n'ait approuvé le contrat, la modification, l'entente ou le changement conformément au paragraphe (5).

(5) L'Office peut approuver un contrat, une modification, une entente ou un changement lorsqu'il détermine que le gaz continuera à être importé aux termes de la licence.

(6) À la demande de l'Office, le titulaire d'une licence dépose auprès de l'Office une copie de chaque contrat ayant trait aux importations de gaz autorisées par la licence, autre qu'un contrat d'achat de gaz d'importation, et de chaque modification, entente ou changement s'y rapportant, dans les 30 jours qui en suivent la signature.

(7) Le titulaire d'une licence dépose auprès de l'Office une copie de chaque contrat avec un tiers se rapportant aux importations de gaz autorisées par la licence et de chaque modification, entente ou changement s'y rapportant, dans les 30 jours qui en suivent la signature.

## SECTION II

### PROPANE, BUTANES ET ÉTHANE

#### Exemption

19. La partie VI de la Loi ne s'applique pas à :

- a) l'importation de propane, de butanes ou d'éthane;
- b) l'exportation du propane, des butanes ou de l'éthane qui, selon le cas :
  - (i) sont destinés à être importés subséquemment,
  - (ii) ont été importés précédemment au Canada;
- c) l'exportation du propane qui est transporté dans les réservoirs de véhicules automobiles pour leur propre consommation.



Information to be Furnished by Applicants for  
Licences for Exportation

20. An applicant for a licence for the exportation of propane, butanes or ethane shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

(a) the terms that the applicant is requesting for the licence, including

- (i) the duration of the licence,
- (ii) the maximum daily, monthly, annual and term quantities of propane, butanes or ethane proposed to be exported and the average heating values of those quantities, and
- (iii) the points of exportation of the propane, butanes or ethane from Canada;

(b) information respecting the applicant's propane, butanes or ethane supply supporting the proposed exportation, including

- (i) a summary of the quantities of propane, butanes or ethane under contract and the average heating values of those quantities,
- (ii) a copy of every propane, butanes or ethane supply contract supporting the proposed exportation,
- (iii) the name and location of each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant, details of the applicant's contracted or working interest therein and the name and location of the plant where propane, butanes or ethane are being produced,
- (iv) an estimate of the gas reserves and the volume of extractable propane, butanes or ethane in each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant,
- (v) supporting data for each estimate referred to in subparagraph (iv),
- (vi) basic gas deliverability data for each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant,
- (vii) a table showing total productive capacity, constrained only by existing and anticipated surface facilities, and
- (viii) a table showing the ways in which the applicant plans to produce gas from each pool, field or area that contributes to the propane, butanes or ethane supply of the applicant, in order to obtain quantities of propane, butanes or ethane necessary to meet the applicant's requirements for the duration of the licence;

(c) information respecting the applicant's propane, butanes or ethane market, including

- (i) details of the applicant's propane, butanes or ethane export sale and a copy of every export sales contract for the proposed exportation, and
- (ii) a description of the export market to be served by the proposed exportation;

(d) details of the transportation arrangements pertaining to the proposed exportation, including

- (i) the details and status of all contractual arrangements, if applicable, for the movement of the propane, butanes or ethane in and outside Canada,
- (ii) a copy of every transportation contract, if applicable, for the movement of the propane, butanes or ethane in Canada, and

Renseignements à fournir par le demandeur  
d'une licence d'exportation

20. Le demandeur d'une licence d'exportation de propane, de butanes ou d'éthane fournit à l'Office les renseignements nécessaires pour lui permettre de prendre une décision, notamment, sauf autorisation contraire de l'Office :

a) les conditions qu'il souhaite pour la licence, y compris :

- (i) la durée de validité de la licence,
- (ii) les quantités journalières, mensuelles et annuelles maximales et la quantité globale de propane, de butanes ou d'éthane qu'il projette d'exporter et le pouvoir calorifique moyen de ces quantités,
- (iii) les points d'exportation du Canada de propane, de butanes ou d'éthane;

b) des renseignements sur son approvisionnement en propane, en butanes ou en éthane à l'appui des exportations proposées, y compris :

- (i) un sommaire des quantités de propane, de butanes ou d'éthane visées par chaque contrat d'approvisionnement et le pouvoir calorifique moyen de ces quantités,
- (ii) une copie de chaque contrat d'approvisionnement en propane, en butanes ou en éthane à l'appui des exportations proposées,
- (iii) le nom et l'emplacement de chaque gisement, champ ou secteur qui contribue à son approvisionnement en propane, en butanes ou en éthane et des précisions sur son intérêt économique direct ou contractuel dans ce gisement, champ ou secteur, ainsi que le nom et l'emplacement de l'installation où les liquides sont produits,
- (iv) une estimation des réserves de gaz et du volume de propane, de butanes ou d'éthane extractibles dans chaque gisement, champ ou secteur qui contribue à son approvisionnement en propane, en butanes ou en éthane,
- (v) des données étayant les estimations visées au sous-alinéa (iv),
- (vi) des données de base sur la productibilité du gaz de chaque gisement, champ ou secteur qui contribue à son approvisionnement en propane, en butanes ou en éthane,
- (vii) un tableau indiquant la capacité de production globale, limitée seulement par les installations à la surface existantes et prévues,
- (viii) un tableau précisant comment il projette de produire du gaz à partir de chaque gisement, champ ou secteur qui contribue à son approvisionnement en propane, en butanes ou en éthane afin d'obtenir les quantités de propane, de butanes ou d'éthane nécessaires pour répondre à ses besoins pendant la durée de validité de la licence;

c) des renseignements sur son marché de propane, de butanes ou d'éthane, y compris :

- (i) des précisions sur sa vente de propane, de butanes ou d'éthane à l'exportation, y compris une copie de chaque contrat de vente à l'exportation pour les exportations proposées,
- (ii) une description du marché d'exportation qui sera desservi par les exportations proposées;

d) des précisions sur les arrangements de transport propres aux exportations proposées, y compris :

- (iii) a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the propane, butanes or ethane to market;
- (e) information respecting the potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects; and
- (f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to
  - (i) the removal of propane, butanes or ethane from a province,
  - (ii) the importation of propane, butanes or ethane into the country of destination,
  - (iii) transportation services,
  - (iv) tariffs and tolls,
  - (v) facilities,
  - (vi) environmental reviews, and
  - (vii) contractual arrangements necessary for the exportation of propane, butanes or ethane.

#### Terms and Conditions of Licences for Exportation

21. The following terms and conditions may be included in any licence for the exportation of propane, butanes or ethane:
- (a) the duration of the licence;
  - (b) the period within which the exportation of propane, butanes or ethane must commence in order for the licence to remain in effect;
  - (c) the daily, monthly, annual and term quantities of propane, butanes or ethane that may be exported;
  - (d) the points of exportation of the propane, butanes or ethane from Canada; and
  - (e) the environmental requirements that must be met in order for the licence to take or remain in effect.

#### Orders for Exportation

22. Where the Board determines that an application for an order for the exportation of propane, butanes or ethane contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person
- (a) where the application is in respect of propane and butanes, to export propane and butanes for a period not exceeding one year; and
  - (b) where the application is in respect of ethane, to export ethane for a period not exceeding two years.

- (i) le cas échéant, le détail de toutes les ententes contractuelles concernant l'acheminement de propane, de butanes ou d'éthane à l'intérieur et à l'extérieur du Canada, ainsi que des précisions sur l'état de ces ententes,
- (ii) le cas échéant, une copie de chaque contrat de transport concernant l'acheminement au Canada de propane, de butanes ou d'éthane,
- (iii) une description des installations de collecte, de stockage et de transport ainsi que des nouvelles installations requises, à l'intérieur et à l'extérieur du Canada, pour l'acheminement de propane, de butanes ou d'éthane au marché;
- e) des renseignements sur les incidences environnementales éventuelles des exportations proposées et les répercussions sociales directement liées à ces incidences;
- f) une copie de chaque approbation ou autorisation émanant des gouvernements fédéral, d'une province ou d'un État qui porte sur les éléments suivants, ou des précisions sur l'état de cette approbation ou autorisation :
  - (i) l'enlèvement de propane, de butanes ou d'éthane d'une province,
  - (ii) l'importation de propane, de butanes ou d'éthane dans le pays de destination,
  - (iii) les services de transport,
  - (iv) les tarifs et les droits,
  - (v) les installations,
  - (vi) les examens environnementaux,
  - (vii) les ententes contractuelles nécessaires pour l'exportation de propane, de butanes ou d'éthane.

#### Conditions des licences d'exportation

21. La licence d'exportation de propane, de butanes ou d'éthane peut être assortie des conditions suivantes :
- a) la durée de validité de la licence;
  - b) le délai dans lequel les exportations de propane, de butanes ou d'éthane doivent commencer pour que la licence demeure en vigueur;
  - c) les quantités journalières, mensuelles et annuelles et la quantité globale de liquides qui peuvent être exportées;
  - d) les points d'exportation de propane, de butanes ou d'éthane du Canada;
  - e) les exigences environnementales à respecter pour que la licence prenne effet ou demeure en vigueur.

#### Ordonnances visant l'exportation

22. L'Office peut, s'il juge qu'une demande visant à obtenir une ordonnance autorisant l'exportation de propane, de butanes ou d'éthane contient les renseignements nécessaires pour lui permettre d'en arriver à une décision, délivrer une ordonnance autorisant la personne, selon le cas :
- a) à exporter du propane et des butanes, pendant une période d'au plus un an, si la demande porte sur le propane et les butanes;
  - b) à exporter de l'éthane pendant une période d'au plus deux ans, si la demande porte sur l'éthane.



## Terms and Conditions of Orders for Exportation

23. The following terms and conditions may be included in any order issued pursuant to section 22:

- (a) the duration of the order;
- (b) the requirement that the holder of the order must file with the Board, within a specified period, evidence of each approval or authorization of a federal, provincial or state government pertaining to
  - (i) the removal of propane, butanes or ethane from a province,
  - (ii) the importation of propane, butanes or ethane into the country of destination,
  - (iii) transportation services,
  - (iv) tariffs and tolls,
  - (v) facilities,
  - (vi) environmental reviews, and
  - (vii) contractual arrangements necessary for the exportation of propane, butanes or ethane;
- (c) the period within which the exportation must commence in order for the order to remain in effect;
- (d) the daily, monthly, annual and term quantities of propane, butanes or ethane that may be exported;
- (e) the points of exportation of the propane, butanes or ethane from Canada; and
- (f) the environmental requirements that must be met in order for the order to take or remain in effect.

## PART III

## OIL

*Exemption*

24. The following transactions are exempt from the operation of Part VI of the Act:

- (a) the importation of any oil; and
- (b) the exportation of any oil
  - (i) that is necessary to effect deliveries of oil by pipeline to consignees in accordance with normal pipeline operating practices,
  - (ii) used for exploration, drilling and production operations in the offshore areas over which Canada exercises jurisdiction,
  - (iii) carried by motor vehicles, aircraft, locomotives and ships in their own tanks for their consumption, or
  - (iv) that has previously been imported into Canada, except where the oil is refined petroleum products.

*Information to be Furnished by Applicants for Licences for Exportation*

25. Every applicant for a licence for the exportation of oil shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

## Conditions des ordonnances visant l'exportation

23. L'ordonnance visée à l'article 22 peut être assortie des conditions suivantes :

- a) la durée de validité de l'ordonnance;
- b) l'obligation pour son titulaire de déposer auprès de l'Office, dans un délai déterminé, la preuve de l'obtention de chaque approbation ou autorisation émanant des gouvernements fédéral, d'une province ou d'un État qui porte sur les éléments suivants :
  - (i) l'enlèvement de propane, de butanes ou d'éthane d'une province,
  - (ii) l'importation de propane, de butanes ou d'éthane dans le pays de destination,
  - (iii) les services de transport,
  - (iv) les tarifs et les droits,
  - (v) les installations,
  - (vi) les examens environnementaux,
  - (vii) les ententes contractuelles nécessaires pour l'exportation de propane, de butanes ou d'éthane;
- c) le délai dans lequel les exportations de propane, de butanes ou d'éthane doivent commencer pour que l'ordonnance demeure en vigueur;
- d) les quantités journalières, mensuelles et annuelles et la quantité globale de liquides qui peuvent être exportées;
- e) les points d'exportation de propane, de butanes ou d'éthane du Canada;
- f) les exigences environnementales à respecter pour que l'ordonnance prenne effet ou demeure en vigueur.

## PARTIE III

## PÉTROLE

*Exemption*

24. La partie VI de la Loi ne s'applique pas à :

- a) l'importation de pétrole;
- b) l'exportation du pétrole qui, selon le cas :
  - (i) est nécessaire pour permettre la livraison par pipeline de pétrole aux destinataires, conformément aux pratiques courantes d'exploitation d'un pipeline,
  - (ii) sert aux opérations de recherche, de forage et de production dans les zones extracôtières qui relèvent de la compétence du Canada,
  - (iii) est transporté dans les réservoirs ou soutes de véhicules automobiles, d'aéronefs, de locomotives ou de navires pour leur propre consommation,
  - (iv) a été importé précédemment au Canada, sauf s'il s'agit de produits pétroliers raffinés.

*Renseignements à fournir par le demandeur d'une licence d'exportation*

25. Le demandeur d'une licence d'exportation de pétrole fournit à l'Office les renseignements nécessaires pour lui permettre de prendre une décision, notamment, sauf autorisation contraire de l'Office :

(a) the terms that the applicant is requesting for the licence, including

- (i) the duration of the licence,
- (ii) the daily, annual and term quantities of oil proposed to be exported, and
- (iii) the points of exportation of the oil from Canada;

(b) information respecting the applicant's oil supply supporting the proposed exportation, including

- (i) a summary of the quantities of oil under every oil supply contract,
- (ii) a copy of every oil supply contract,
- (iii) the name and location of each pool, field or area that contributes to the oil supply of the applicant and the details of the applicant's contracted or working interest therein,
- (iv) an estimate of the oil reserves in each pool, field or area that contributes to the oil supply of the applicant,
- (v) supporting data for each estimate referred to in subparagraph (iv),
- (vi) basic productive capacity data for each pool, field or area that contributes to the oil supply of the applicant, and
- (vii) a table showing anticipated annual production for each pool, field or area that contributes to the oil supply of the applicant, and the total annual production during the licence;

(c) information respecting the applicant's oil market, including

- (i) details of the applicant's oil export sale, including a copy of every oil export sales contract for the proposed exportation, and
- (ii) a description of the export market to be served by the proposed exportation;

(d) details of the transportation arrangements pertaining to the proposed exportation of oil, including a description of the gathering, storage and transmission facilities and any new facilities, in and outside Canada, required to move the oil to market;

(e) information respecting the potential environmental effects of the proposed exportation and any social effects that would be directly related to those environmental effects; and

(f) a copy of, or details of the status of, each approval or authorization of a federal, provincial or state government pertaining to

- (i) the importation of oil into the country of destination,
- (ii) transportation services,
- (iii) tariffs and tolls,
- (iv) facilities,
- (v) environmental reviews, and
- (vi) contractual arrangements necessary for the exportation of oil.

#### *Licences for Exportation*

26. (1) Subject to subsection (2), the Board may, after holding a public hearing and obtaining the approval of the Governor in Council under section 4, issue a licence authorizing any person

a) les conditions qu'il souhaite pour la licence, y compris :

- (i) la durée de validité de la licence,

- (ii) les quantités journalières et annuelles et la quantité globale de pétrole qu'il projette d'exporter,

- (iii) les points d'exportation de pétrole du Canada;

b) des renseignements sur son approvisionnement en pétrole à l'appui des exportations proposées, y compris :

- (i) un sommaire des quantités de pétrole visées par chaque contrat d'approvisionnement,

- (ii) une copie de chaque contrat d'approvisionnement en pétrole,

- (iii) le nom et l'emplacement de chaque gisement, champ ou secteur qui contribue à son approvisionnement en pétrole et des précisions sur son intérêt économique direct ou contractuel dans ce gisement, champ ou secteur,

- (iv) une estimation des réserves de pétrole dans chaque gisement, champ ou secteur qui contribue à son approvisionnement en pétrole,

- (v) des données étayant les estimations visées au sous-alinéa (iv),

- (vi) des données de base sur la productibilité de chaque gisement, champ ou secteur qui contribue à son approvisionnement en pétrole,

- (vii) un tableau indiquant la production annuelle prévue pour chaque gisement, champ ou secteur qui contribue à son approvisionnement en pétrole et la production annuelle globale pendant la durée de validité de la licence;

c) des renseignements sur son marché de pétrole, y compris :

- (i) des précisions sur sa vente de pétrole à l'exportation, y compris une copie de chaque contrat de vente de pétrole à l'exportation pour les exportations proposées,

- (ii) une description de son marché d'exportation qui sera desservi par les exportations proposées;

d) des précisions sur les arrangements de transport propres aux exportations proposées, y compris une description des installations de collecte, de stockage et de transport ainsi que des nouvelles installations requises, à l'intérieur et à l'extérieur du Canada, pour l'acheminement de pétrole au marché;

e) des renseignements sur les incidences environnementales éventuelles des exportations proposées et les répercussions sociales directement liées à ces incidences;

f) une copie de chaque approbation ou autorisation émanant des gouvernements fédéral, d'une province ou d'un État qui porte sur les éléments suivants, ou des précisions sur l'état de cette approbation ou autorisation :

- (i) l'importation de pétrole dans le pays de destination,

- (ii) les services de transport,

- (iii) les tarifs et les droits,

- (iv) les installations,

- (v) les examens environnementaux,

- (vi) les ententes contractuelles nécessaires pour l'exportation de pétrole.

#### *Licences d'exportation*

26. (1) Sous réserve du paragraphe (2), l'Office peut, après avoir tenu une audience publique et obtenu l'approbation du gouverneur en conseil en vertu de l'article 4, délivrer à une personne une licence l'autorisant :



- (a) to export heavy crude oil for a period exceeding two years but not exceeding 25 years; and
- (b) to export oil, other than heavy crude oil, for a period exceeding one year but not exceeding 25 years.

(2) The Board may issue a licence for the exportation of refined petroleum products, resulting from an oil processing arrangement of imported oil, for a period exceeding one year but not exceeding 25 years, without holding a public hearing.

(3) For the purposes of subsection (2), "oil processing arrangement of imported oil" means a commercial arrangement whereby oil is imported for processing or refining at a refinery in Canada, and the refined petroleum products obtained or derived therefrom, or from a quantity of other oil determined by the Board to be comparable thereto, are to be exported from Canada.

#### *Terms and Conditions of Licences for Exportation*

27. Every licence for the exportation of oil may include terms and conditions respecting

- (a) the duration of the licence;
- (b) the period within which the exportation of the oil must commence in order for the licence to remain in effect;
- (c) the total quantity of oil that may be exported;
- (d) the points of exportation of the oil from Canada; and
- (e) the environmental requirements that must be met in order for the licence to take or remain in effect.

#### *Orders for Exportation*

28. Where the Board determines that an application for an order for the exportation of oil contains all the information necessary to dispose of the application, the Board may issue an order authorizing a person

- (a) to export heavy crude oil for a period not exceeding two years; or
- (b) to export oil, other than heavy crude oil, for a period not exceeding one year.

#### *Terms and Conditions of Orders for Exportation*

29. The following terms and conditions may be included in an order issued pursuant to section 28:

- (a) the duration of the order;
- (b) the period within which the exportation of the oil must commence in order for the order to remain in effect;
- (c) every contract or agreement that the holder of the order enters into for the exportation of the oil for a period exceeding one month must contain a clause relieving the holder of the obligation to export the oil to the extent that exportations are restricted by the Government of Canada;
- (d) the total quantity of oil that may be exported;
- (e) the points of exportation of the oil from Canada; and
- (f) the environmental requirements that must be met in order for the order to take or remain in effect.

a) à exporter du pétrole brut lourd pendant une période supérieure à deux ans, mais ne dépassant pas 25 ans;

b) à exporter du pétrole, autre que du pétrole brut lourd, pendant une période supérieure à un an, mais ne dépassant pas 25 ans.

(2) L'Office peut, sans tenir d'audience publique, délivrer une licence autorisant l'exportation de produits pétroliers raffinés résultant d'une entente visant le traitement de pétrole importé, pendant une période supérieure à un an, mais ne dépassant pas 25 ans.

(3) Pour l'application du paragraphe (2), « entente visant le traitement de pétrole importé » s'entend d'une entente commerciale aux termes de laquelle, d'une part, du pétrole est importé en vue de son traitement ou de son raffinage à une raffinerie canadienne et, d'autre part, les produits pétroliers raffinés obtenus ou dérivés de ce pétrole, ou d'une quantité d'autre pétrole que l'Office juge comparable à ce dernier, sont exportés du Canada.

#### *Conditions des licences d'exportation*

27. Toute licence d'exportation de pétrole peut préciser :

- a) la durée de validité;
- b) le délai dans lequel les exportations de pétrole doivent commencer pour que la licence demeure en vigueur;
- c) la quantité totale de pétrole qui peut être exportée;
- d) les points d'exportation de pétrole du Canada;
- e) les exigences environnementales à respecter pour que la licence prenne effet ou demeure en vigueur.

#### *Ordonnances d'exportation*

28. L'Office peut, s'il juge qu'une demande visant à obtenir une ordonnance autorisant l'exportation de pétrole contient les renseignements nécessaires pour lui permettre d'en arriver à une décision, délivrer une ordonnance autorisant la personne, selon le cas :

- a) à exporter du pétrole brut lourd pendant une période d'au plus deux ans;
- b) à exporter du pétrole, autre que du pétrole brut lourd, pendant une période d'au plus un an.

#### *Conditions des ordonnances d'exportation*

29. L'ordonnance visée à l'article 28 peut être assortie des conditions suivantes :

- a) la durée de validité de l'ordonnance;
- b) le délai dans lequel les exportations de pétrole doivent commencer pour que l'ordonnance demeure en vigueur;
- c) l'obligation d'inclure, dans tout contrat ou entente conclu par le titulaire de l'ordonnance aux fins de l'exportation de pétrole pour une période de plus d'un mois, une clause qui le dégage de l'obligation d'exporter le pétrole dans la mesure où le gouvernement du Canada limite les exportations;
- d) la quantité totale de pétrole qui peut être exportée;
- e) les points d'exportation de pétrole du Canada;
- f) les exigences environnementales à respecter pour que l'ordonnance prenne effet ou demeure en vigueur.

SCHEDULE I  
(*Clause 12(c)(i)(B)*)

ANNEXE I  
(*division 12c)(i)(B)*)

SUMMARY OF CONTRACT TERMS AND CONDITIONS

RÉSUMÉ DES MODALITÉS DE CONTRAT

1. Canadian Seller:  
(a) indicate the full corporate name.
2. U.S. Buyer:  
(a) indicate the full corporate name.
3. Third-party Resale Agreements:  
(a) indicate if the third-party resale agreement mirrors the international export sales contract and vice versa; and  
(b) if it does not, include a summary of the third-party resale agreement.
4. Conditions Precedent:  
(a) provide any conditions precedent, including the dates by which the conditions must be met.
5. Term:  
Indicate  
(a) the length of initial contract term;  
(b) the commencement date;  
(c) the expiration date; and  
(d) any renewal or termination rights.
6. Delivery Point:  
Indicate  
(a) the point at which the Canadian seller sells to the U.S. buyer; and  
(b) the point at which the gas crosses the international boundary, if different from the point referred to in paragraph (a).
7. Contract Quantity:  
Indicate  
(a) in both metric and imperial units,  
    (i) the maximum daily quantity (MDQ),  
    (ii) the daily contract quantity (DCQ),  
    (iii) the monthly contract quantity (MCQ),  
    (iv) the annual contract quantity (ACQ), and  
    (v) the summer and winter quantities; and  
(b) the right to increase or decrease the contract quantity.
8. Pricing Provisions:  
Provide, using the dollars and units of measurement used in the contract,  
(a) a general description of the pricing provisions (for example, a two-part price consisting of a demand charge and a commodity charge);  
(b) a description of the various components of the demand charge, the payment provisions, the adjustment provisions, and associated renegotiation or arbitration provisions;  
(c) a description of the commodity charge, including the base or reference price, pricing indices, fuel costs, the Gas Inven-

1. Vendeur canadien :  
a) indiquer sa dénomination sociale au complet.
2. Acheteur américain :  
a) indiquer sa dénomination sociale au complet.
3. Contrats de revente à des tiers :  
a) indiquer si le contrat de revente à un tiers reflète le contrat international de vente à l'exportation, et inversement;  
b) sinon, inclure un résumé du contrat de revente à un tiers.
4. Conditions préalables :  
a) le cas échéant, préciser les conditions préalables, y compris les dates auxquelles ces conditions doivent être remplies.
5. Durée :  
Indiquer :  
a) la durée initiale du contrat;  
b) la date de début du contrat;  
c) la date d'expiration du contrat;  
d) les droits de renouvellement ou de résiliation.
6. Point de livraison :  
Indiquer :  
a) le point où le vendeur canadien vend du gaz à l'acheteur américain;  
b) le point où le gaz traverse la frontière internationale, s'il diffère de celui visé à l'alinéa a).
7. Quantités contractuelles :  
Indiquer :  
a) en unités métriques et en unités impériales :  
    (i) la quantité journalière maximale (QJM),  
    (ii) la quantité contractuelle journalière (QCJ),  
    (iii) la quantité contractuelle mensuelle (QCM),  
    (iv) la quantité contractuelle annuelle (QCA),  
    (v) les quantités en été et en hiver;  
b) le droit d'augmenter ou de réduire les quantités contractuelles.
8. Dispositions relatives à l'établissement des prix :  
Donner, en utilisant les dollars et les unités de mesure employées dans le contrat :  
a) une description générale des dispositions relatives à l'établissement des prix (par exemple, un prix à deux volets constitué de frais liés à la demande et de frais liés au produit);  
b) la description des diverses composantes des frais liés à la demande, des dispositions touchant le paiement, des dispositions de rajustement et des dispositions connexes concernant la renégociation du contrat ou l'arbitrage;



tory Charge (GIC), any reservation or stand-by fees, any provision for multi-tier or incentive prices, and any associated renegotiation or arbitration provisions; and

(d) other pricing provisions not included in paragraphs (a) to (c).

#### 9. Take Provisions:

Indicate

(a) the seller's obligations, including a description of monetary or volumetric penalties for non-performance, any provision for alternate sales rights, and any associated renegotiation or arbitration provisions; and

(b) the buyer's obligations, including any provision for minimum daily, monthly, seasonal or annual takes, the *pro-rata* take provisions, the volumetric reduction provisions, the minimum bill provisions, the associated make-up rights, and any associated renegotiation or arbitration provisions.

#### 10. Supply Security:

(a) indicate whether there is a requirement on the part of the seller to provide audited financial statements and regular reports on reserve and deliverability data.

#### 11. Force Majeure:

(a) indicate the *force majeure* relief available to the seller and the buyer.

### SCHEDULE II (Paragraph 12(i))

#### STATUS SHEET FOR CONTRACTUAL ARRANGEMENTS AND REGULATORY APPROVALS AND AUTHORIZATIONS

##### 1. Project data

(a) Exporter:

(b) Export Points:

(c) Importer:

(d) Maximum Daily Quantity:

(e) Term:

##### 2. All Applicable Transportation Arrangements

(a) Upstream

(i) Transporter:

(ii) Availability of Capacity:

(iii) Contractual Arrangement:

(iv) Term:

(b) Canadian Mainline

(i) Transporter:

(ii) Availability of Capacity:

(iii) Contractual Arrangement:

(iv) Term:

c) la description des frais liés au produit, y compris le prix de base ou de référence, des indices d'établissement des prix, des coûts en carburant, des frais de stockage de réserves de gaz (FSRG), des frais de réservation ou de mise en disponibilité, des dispositions prévoyant des prix à plusieurs niveaux ou des prix d'incitation et des dispositions connexes concernant la renégociation du contrat ou l'arbitrage;

d) toute autre disposition relative à l'établissement des prix non mentionnée aux alinéas a) à c).

#### 9. Dispositions concernant l'acceptation :

Indiquer :

a) les obligations du vendeur, y compris une description des pénalités financières ou volumétriques en cas de défaut d'exécution, des clauses sur les droits de vente à d'autres parties et des dispositions connexes concernant la renégociation du contrat ou l'arbitrage;

b) les obligations de l'acheteur, y compris les dispositions sur les acceptations minimales journalières, mensuelles, saisonnières ou annuelles, les acceptations au prorata, la réduction des volumes convenus et la facturation minimale, les droits de rattrapage correspondants et les dispositions connexes concernant la renégociation du contrat ou l'arbitrage.

#### 10. Sécurité de l'approvisionnement :

a) indiquer si le vendeur est tenu de fournir des états financiers vérifiés et des rapports périodiques sur les réserves et la productibilité.

#### 11. Force majeure :

a) indiquer si une exemption pour cas de force majeure peut être accordée au vendeur et à l'acheteur.

### ANNEXE II (alinéa 12i))

#### RAPPORT SUR L'ÉTAT DES ENTENTES CONTRACTUELLES ET DES APPROBATIONS ET AUTORISATIONS RÉGLEMENTAIRES

##### 1. Données sur les projets

a) Exportateur :

b) Points d'exportation :

c) Importateur :

d) Quantité journalière maximale :

e) Durée :

##### 2. Détail des arrangements relatifs au transport

a) En amont

(i) Transporteur :

(ii) Capacité disponible :

(iii) Entente contractuelle :

(iv) Durée :

b) Canalisation principale au Canada

(i) Transporteur :

(ii) Capacité disponible :

(iii) Entente contractuelle :

(iv) Durée :

## (c) Downstream

- (i) Immediate Downstream Transporter:
- (ii) Availability of Capacity:
- (iii) Contractual Arrangement:
- (iv) Term:
- (v) Further Downstream Transporter:
- (vi) Availability of Capacity:
- (vii) Contractual Arrangement:
- (viii) Term:

## 3. Sales Arrangements

## (a) All Applicable Gas Sales Agreements

- (i) Gas Purchaser:
- (ii) Contractual Arrangement:
- (iii) Term:

## (b) All Applicable Power Sales Agreements

- (i) Power Purchaser:
- (ii) Contractual Arrangement:
- (iii) State Regulatory Approval:

## (c) All Applicable Thermal Sales Agreements

- (i) Thermal Purchaser:
- (ii) Contractual Arrangement:

## 4. Supply Arrangements

## (a) All Applicable Gas Supply Agreements

- (i) Producer or Supply Aggregator:
- (ii) Contractual Arrangement:
- (iii) Term:
- (iv) Contracted Volumes:

## 5. Regulatory Authorizations

## (a) Provincial Gas Removal Permit

- (i) Provincial Removal Permit:
- (ii) Date of Application:
- (iii) Requested Term and Volume of Permit:
- (iv) File Number:
- (v) Date of Authorization:
- (vi) Permit Number:
- (vii) Expiry Date:
- (viii) Term Volume:

## (b) DOE/FE Import Authorization

- (i) Applicant:
- (ii) Date of Application:
- (iii) Requested Term of Order:
- (iv) Hearing Order Number:
- (v) Date of Authorization:
- (vi) Order Number:
- (vii) Expiry Date:

## (c) FERC Facility and Service Authorization

- (i) Applicant:
- (ii) Date of Application:
- (iii) Docket Number:
- (iv) Date of Authorization:
- (v) Order Number:
- (vi) Expiry Date:

## c) En aval

- (i) Premier transporteur :
- (ii) Capacité disponible :
- (iii) Entente contractuelle :
- (iv) Durée :
- (v) Transporteur subséquent :
- (vi) Capacité disponible :
- (vii) Entente contractuelle :
- (viii) Durée :

## 3. Arrangements relatifs aux ventes

## a) Arrangements relatifs aux ventes de gaz

- (i) Acheteur de gaz :
- (ii) Entente contractuelle :
- (iii) Durée :

## b) Arrangements relatifs aux ventes de puissance

- (i) Acheteur de puissance :
- (ii) Entente contractuelle :
- (iii) Approbation réglementaire émanant d'un État

## c) Arrangements relatifs aux ventes d'énergie thermique

- (i) Acheteur d'énergie thermique :
- (ii) Entente contractuelle :

## 4. Arrangements relatifs aux approvisionnements

## a) Arrangements relatifs aux approvisionnements en gaz

- (i) Producteur ou consortium de fournisseurs :
- (ii) Entente contractuelle :
- (iii) Durée :
- (iv) Volumes visés par l'entente contractuelle :

## 5. Autorisations réglementaires

## a) Permis provincial d'enlèvement de gaz

- (i) Permis d'enlèvement provincial :
- (ii) Date de la demande de permis :
- (iii) Durée de validité et volume demandés :
- (iv) Numéro du dossier :
- (v) Date de l'autorisation :
- (vi) Numéro du permis :
- (vii) Date d'expiration :
- (viii) Volume pendant la durée de validité :

## b) Autorisation d'importation DOE/FE

- (i) Demandeur :
- (ii) Date de la demande :
- (iii) Durée de validité de l'ordonnance demandée :
- (iv) Numéro de l'audience d'ordonnance :
- (v) Date de l'autorisation :
- (vi) Numéro de l'ordonnance :
- (vii) Date d'expiration :

## c) Autorisation d'installation et de service de la Federal Energy Regulatory Commission

- (i) Demandeur :
- (ii) Date de la demande :
- (iii) Numéro du dossier :
- (iv) Date de l'autorisation :
- (v) Numéro de l'ordonnance :
- (vi) Date d'expiration :



**(d) State PSC Facility and Service Authorization**

- (i) Applicant:
- (ii) Date of Application:
- (iii) File Number:
- (iv) Date of Authorization:
- (v) Order Number:
- (vi) Expiry Date:

**d) Autorisation d'installation et de service de la PSC**

- (i) Demandeur :
- (ii) Date de la demande :
- (iii) Numéro du dossier :
- (iv) Date de l'autorisation :
- (v) Numéro de l'ordonnance :
- (vi) Date d'expiration :

### REGULATORY IMPACT ANALYSIS STATEMENT

*(This statement is not part of the Regulations.)*

**Description**

As a result of changes in the regulation of imports and exports, particularly amendments to the *National Energy Board Act* respecting the regulation of electricity and the policy documents released by the National Energy Board ("the Board") on the Market-Based Procedure, and to take into account comments of the Standing Joint Committee for the Scrutiny of Regulations, there is a need to make amendments to the *National Energy Board Part VI Regulations*.

Regulations with respect to the exportation of electricity will no longer be included in these Regulations but will be drafted as separate regulations. The reporting requirements for holders of licences and orders for the exportation of gas, oil and electricity or for the importation of gas will be issued as separate regulations under the appropriate section of the *National Energy Board Act*.

The premise of the Market-Based Procedure is that the marketplace will generally operate in such a way that Canadian requirements for natural gas will be met at fair market prices. Consequently, the information required for a licence to import or export gas has been reduced and clarified. Provisions have been added to the Regulations to allow the operation of a complaints procedure for any domestic purchaser of gas who objects to the issuance of a licence for the exportation of gas on the grounds that it has not had an opportunity to obtain gas under contract on terms and conditions, including price, similar to those of the proposed export. This includes the requirement that an applicant file a summary of the gas sales contract which will allow domestic users and the Board to assess the terms and conditions included in a gas export sales contract and compare terms with other contracts.

The Regulations have been restructured to provide separate sections for natural gas, propane, butanes and ethane, and oil.

The references to oil exported by marine vessel from the west coast of Canada have been removed. The purpose of these provisions was to address the odour emission problems during loading of high sulphur oil. It has been determined that the problem associated with the loading of this oil are better

### RÉSUMÉ DE L'ÉTUDE D'IMPACT DE LA RÉGLEMENTATION

*(Ce résumé ne fait pas partie du règlement.)*

**Description**

En raison de changements survenus dans le domaine de la réglementation des importations et des exportations, spécialement la modification des dispositions de la *Loi sur l'Office national de l'énergie* qui portent sur la réglementation de l'électricité et la publication par l'Office national de l'énergie (« l'Office ») de documents de principe concernant la méthode de calcul axée sur les conditions du marché, et par suite des avis donnés par le Comité mixte permanent d'examen de la réglementation, il s'impose d'amender le *Règlement sur l'Office national de l'énergie (Partie VI)*.

Les dispositions régissant l'exportation de l'électricité ne feront désormais plus partie du Règlement précité et feront l'objet d'un règlement distinct. Les dispositions prescrivant les exigences en matière de rapports imposées aux détenteurs de licences et d'ordonnances pour l'exportation de gaz, de pétrole ou d'électricité ou l'importation de gaz seront énoncées dans un règlement distinct, établi aux termes de l'article approprié de la *Loi sur l'Office national de l'énergie*.

La méthode de calcul axée sur les conditions du marché repose sur le principe selon lequel le marché fonctionne généralement de telle sorte que les besoins en gaz naturel au Canada puissent être satisfaits à des prix du marché raisonnables. En conséquence, l'Office a réduit et clarifié la gamme de renseignements que doivent lui fournir les demandeurs de licences d'importation ou d'exportation de gaz. Le Règlement prévoit désormais l'application d'un mécanisme d'intervention en fonction des plaintes, dans les cas où un acheteur de gaz canadien s'opposerait à la délivrance d'une licence d'exportation de gaz parce qu'il n'a pas eu l'occasion de se procurer du gaz par contrat selon des modalités, y compris un prix, semblables à celles qui s'appliquent aux exportations proposées. Cela suppose pour le demandeur l'obligation de déposer un résumé des contrats de vente de gaz qu'il a conclus afin que les utilisateurs canadiens et l'Office puissent en évaluer les modalités et les comparer à celles d'autres contrats.

On a changé la structure du règlement antérieur de manière à traiter séparément du gaz naturel, du propane, des butanes et de l'éthane, et du pétrole.

Les dispositions concernant l'exportation par bateau, à partir de la côte ouest, ont été supprimées du Règlement. Ces dispositions visaient à remédier au problème de l'échappement d'odeurs dans l'atmosphère au moment du chargement du pétrole ayant une teneur élevée en soufre. On a déterminé que

addressed through conditions attached to the orders for the facilities.

Given that the Act requires that any terms and conditions the Board may wish to impose on orders to export and import oil or gas be set out in regulations, the list of possible terms and conditions for licences and orders has been expanded to allow for any foreseeable circumstances.

The Act requires that the information to be furnished by an applicant for a licence be set out in regulations. Provisions have been added establishing what must be filed for a licence to export propane, butanes and ethane or oil.

The Regulations required a gas export licence or order holder to file any amendments to the gas sales contract with the Board, and obtain Board approval prior to exporting pursuant to such amendment. This provision has been amended to allow for sales to third parties for periods of less than two years when the importer cannot take the gas.

The provisions regarding emergency import and export orders have been removed. In the past, the Board conducted a written process before issuing short-term orders which could take two to three months, hence there was a need to be able to issue orders quickly. As the Board's process has been changed, orders are now issued expeditiously, so there is no necessity for a provision for emergency orders.

Propylene has been exempted from the need to obtain a licence or order for its export. The purpose of the regulations is to control the import and export of energy used for fuel purposes. As propylene is used primarily as a petrochemical feedstock there is no need to regulate it.

### *Alternatives*

These Regulations are replacing previously enacted regulations.

Two alternatives were considered:

- maintain the status quo
- amend the regulations to take into account changes in the level of regulation as a result of Board policy decisions.

The Board's policy decisions and the regulatory environment should be reflected in the Regulations hence these amendments have been made.

### *Benefits and Costs*

These Regulations do not add substantially to the regulations previously in place. Most changes made implement the reduction in regulation of gas and oil and will therefore benefit the

la meilleure façon d'aborder ce problème était d'assortir des conditions appropriées les ordonnances concernant les installations connexes.

Étant donné que la Loi exige que toutes les modalités dont l'Office pourrait assortir les ordonnances d'exportation et d'importation de gaz ou de pétrole soient énoncées dans les règlements, la liste des conditions dont les ordonnances et les licences sont susceptibles d'être assorties a été élargie de manière à tenir compte de tous les cas prévisibles.

La Loi prescrit également que les règlements doivent préciser les renseignements qu'un demandeur de licence peut être appelé à fournir à l'Office. On a donc ajouté dans le Règlement des dispositions établissant les renseignements qui doivent être déposés à l'appui d'une demande de licence d'exportation de propane, de butanes et d'éthane, ou de pétrole.

Antérieurement, le Règlement exigeait que le détenteur d'une licence ou d'une ordonnance d'exportation de gaz dépose auprès de l'Office toute modification apportée au contrat de vente de gaz et qu'il fasse approuver cette modification par l'Office avant d'exporter du gaz en vertu de celle-ci. Cette disposition est maintenant amendée pour permettre la vente de gaz à des tiers pendant des périodes de moins de deux ans, lorsque l'importateur ne peut l'acheter lui-même.

Les dispositions concernant les ordonnances autorisant des importations ou des exportations d'urgence ont été supprimées. Par le passé, la délivrance d'ordonnances à court terme par l'Office reposait sur des formalités administratives écrites qui pouvaient prendre de deux à trois mois; il fallait donc un moyen de délivrer rapidement des ordonnances. Étant donné que la procédure de l'Office a été modifiée et que la délivrance des ordonnances se fait maintenant d'une façon expéditive, il n'y a donc plus lieu de prévoir des dispositions au sujet d'ordonnances d'urgence.

Une dispense de l'exigence d'obtenir une licence ou une ordonnance d'exportation est accordée dans le cas du propylène. Le Règlement a pour but de régir l'importation et l'exportation de l'énergie utilisée comme combustible. Étant donné que le propylène sert avant tout comme charge d'alimentation pour des usages pétrochimiques, il n'y a pas lieu de réglementer ce produit.

### *Solutions envisagées*

Le présent Règlement remplace un règlement antérieur.

Deux solutions ont été examinées :

- le maintien du statu quo;
- la modification du règlement en vigueur en fonction des changements dans le niveau de réglementation entraînés par les décisions de l'Office concernant sa politique de réglementation.

Étant donné que les règlements doivent traduire les décisions de l'Office sur le plan de la politique et le contexte de réglementation, il a été décidé d'apporter les amendements susmentionnés.

### *Avantages et coûts*

Le présent Règlement ne contient pas un grand nombre de nouvelles dispositions. La plupart des modifications visent à rabaisser le niveau de réglementation du gaz et du pétrole, et



industry. The Regulations cause no additional cost to industry or government.

#### **Consultation**

In August 1990, the Board sent a copy of draft regulations to a large selection of industry representatives and persons interested in gas, oil and electricity matters. The Board held four information sessions to discuss proposed changes with parties. The Board also requested written comments which have been considered by the Board in making further changes to the Regulations.

Early notice was also provided through the 1992 Federal Regulatory Plan, proposal no. NEB-4, the 1993 plan, proposal no. NEB-5, the 1994 plan, proposal no. NEB-8 and the 1995 plan, proposal no. NEB/95-8-O-L.

In February 1995, the Board issued the draft Regulations for comment. This draft was republished May 6, 1995. Comments were received and considered by the Board and significant changes were made to the draft Regulations. As a result, the Regulations were re-published in the *Canada Gazette Part I* on January 13, 1996, comments were due February 14, 1996. The Board received comments from one party. The Board has considered these comments and has determined that no further changes are required.

#### **Compliance and Enforcement**

The *National Energy Board Act* provides for penalties if these Regulations are contravened. There are no additional enforcement costs.

#### **Contact**

Cliff Brown  
Manager, Gas Export Division  
National Energy Board  
311 - 6th Avenue S.W.  
Calgary, Alberta  
T2P 3H2  
Telephone: (403) 299-3190  
FAX: (403) 292-5503

seront, par conséquent, avantageuses pour l'industrie. Le Règlement n'occasionne aucun coût additionnel pour l'industrie ou le gouvernement.

#### **Consultations**

En août 1990, l'Office a fait parvenir une ébauche du Règlement à un large éventail de représentants de l'industrie et de personnes qui s'intéressent aux questions concernant le gaz, le pétrole et l'électricité. L'Office a de plus organisé quatre séances d'information afin de discuter des changements proposés avec les diverses parties. Il a également invité ces dernières à présenter leurs observations par écrit, observations dont l'Office a tenu compte pour apporter d'autres modifications au Règlement.

Un préavis du Règlement a également été fourni par le truchement des Projets de réglementation fédérale n° 1992 ONE-4, 1993 ONE-5, 1994 ONE-8 et 1995, ONE-95-8-A-F.

En février 1995, l'Office a diffusé aux fins de commentaires une ébauche du Règlement. Cet ébauche a été pré-publié le 6 mai 1995. Les commentaires furent reçus et considérés par l'Office et des changements significatifs ont été apportés à l'ébauche du Règlement. Par conséquent, le Règlement a donc paru en publication préalable dans la *Gazette du Canada Partie I*, le 13 janvier 1996; les commentaires devaient être soumis au plus tard le 14 février 1996. Après étude des commentaires reçus par un parti, l'Office a décidé de ne pas remanier le Règlement.

#### **Observance et application**

La *Loi sur l'Office national de l'énergie* prévoit des pénalités pour quiconque contrevient au présent Règlement. La mise en application du Règlement ne suppose pas de frais supplémentaires.

#### **Personne-ressource**

Cliff Brown  
Gestionnaire, Division des exportations de gaz  
Office national de l'énergie  
311, 6<sup>e</sup> Avenue S.-O.  
Calgary (Alberta)  
T2P 3H2  
Téléphone : (403) 299-3190  
TÉLÉCOPIEUR : (403) 292-5503





National Energy Board

Office national de l'énergie

CAI  
MT76  
- N 53

File: 4040-A000-1  
19 December 1996

To: All parties on the Board's mailing list

Re: **The NEB Seeks Comments on the Canadian Association of  
Petroleum Producers' ("CAPP") Letter dated  
20 November 1996 Requesting the Board to Convene a Workshop**

The Board is in receipt of a letter from CAPP dated 20 November 1996 (attached) requesting that the Board establish and release procedures for a workshop at which issues affecting the ability of pipeline companies to best serve the gas industry would be considered in a generic fashion.

Before deciding whether to hold such a workshop, the Board is seeking comments from parties on the following issues:

1. The usefulness of CAPP's proposed workshop;
2. The most appropriate timing for such a workshop;
3. Potential issues to be addressed at such a workshop; and
4. Alternatives to CAPP's proposal (i.e. forums other than a workshop) that could be utilized to achieve the desired result.

Parties are requested to provide the Board with their comments by 31 January 1997.

Yours truly,

M. L. Mantha  
A/ Secretary

Attachment







Dossier 4040-A000-1  
Le 19 décembre 1996

À : Toutes les parties figurant sur la liste d'envoi de l'Office

**Objet : L'ONÉ sollicite des commentaires sur la lettre du 20 novembre 1996  
de l'Association canadienne des producteurs pétroliers (ACPP)  
concernant la tenue d'un éventuel atelier**

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L'Office a reçu de l'ACPP une lettre, en date du 20 novembre 1996, dans laquelle l'ACPP demande à l'Office d'établir et de publier une démarche pour un atelier au cours duquel les questions touchant l'aptitude des compagnies pipelinières à servir au mieux l'industrie gazière seraient étudiées de façon générique.

Avant de décider s'il doit tenir un tel atelier, l'Office sollicite les commentaires des parties sur les questions suivantes :

1. l'utilité de tenir l'atelier proposé par l'ACPP;
2. le meilleur moment pour tenir un tel atelier;
3. les questions qui pourraient y être traitées;
4. les formules de rechange à la tenue de l'atelier proposé par l'ACPP (forums, etc.) qui pourraient servir aux mêmes fins.

Les parties doivent fournir leurs commentaires à l'Office d'ici au 31 janvier 1997.

Veuillez agréer mes salutations distinguées.

Le secrétaire p. int.

M. L. Mantha

p.j.





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November 20, 1996

NET/ONE

Mr. J. S. Richardson  
Secretary  
National Energy Board  
311-6 Avenue S.W.  
Calgary, Alberta  
T2P 3H2

Dear Mr. Richardson:

As the Board is fully aware, the natural gas industry is becoming increasingly competitive with the emergence of an integrated continental natural gas market. With increased competition, the capability of natural gas pipelines under the Board's jurisdiction to provide timely, flexible, low-cost services is integral to the ability of the Canadian natural gas industry to thrive in this deregulated environment. Now that the process of deregulation has matured, the Canadian Association of Petroleum Producers (CAPP) considers it time to take stock of a number of issues that affect the ability of pipelines to best serve the gas industry in today's competitive marketplace. Generally speaking, such issues include items such as toll design, terms and conditions of service, as well as the ability of industry participants to obtain new or additional transportation capacity in a timely manner. As these issues are not limited to specific natural gas pipelines regulated by the Board, CAPP proposes that a workshop be convened to consider them in a generic fashion. Items worthy of evaluation, in CAPP's opinion, would include:

- Term linked tolls - shippers would be encouraged to contract longer term through toll discounts, thereby being directly compensated for providing the financial underpinning of the transportation system.
- Approval of advance capacity - to allow industry participants to take advantage of market opportunities in a timely fashion as opposed to waiting several years for additional capacity to become available.
- Modification of market and supply filing requirements demonstrating economic feasibility of expansions, recognizing that under deregulation, long-term gas markets are increasingly being supplied through short-term contractual arrangements.

This list is by no means comprehensive, and other industry stakeholders will undoubtedly identify issues that are worthy of discussion in a workshop environment. CAPP urges the Board to establish a workshop, and solicit from interested parties a list of topics to be





To: J.S. Richardson, NEB  
From: R.S. Woodward, CAPP

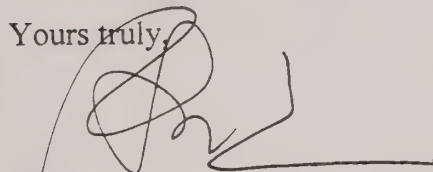
November 20, 1996  
Page 2

discussed. Once this list has been finalized, CAPP recommends that parties be required to provide written submissions identifying key facts and considerations for each topic before a workshop to consider such issues is convened.

To provide sufficient time for parties to identify issues for discussion and to provide written submissions, CAPP considers that a workshop would not be feasible until the spring/summer of 1997. Therefore, in order that these important issues are examined in an expedient manner, CAPP requests that the Board establish and release procedures for such a workshop in the near future.

If the Board requires further information or would like the opportunity to consult CAPP further on its proposal, please do not hesitate to call me at 267-1168.

Yours truly,

A handwritten signature in black ink, appearing to be 'R. Woodward', with a long horizontal line extending to the right.

Richard Woodward  
Vice President, Markets, Transportation & Fiscal Policy





National Energy Board

Office national de l'énergie

CAI  
MT76  
-N53File 7205-A000-2  
17 January 1997

To: **All Interested Persons**

Subject: **Upcoming Public Hearing of Part VI Gas Export Licence Applications**

The National Energy Board is planning to hold its next gas export hearing in May 1997 and hereby gives notice to all potential applicants that completed applications must be filed on or before 20 February 1997 in order to be included in the proceeding.

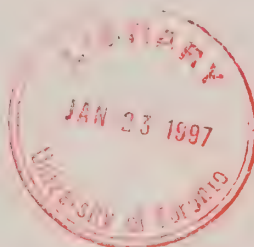
In July 1987, the Board implemented the Market-Based Procedure ("MBP") which assists the Board in discharging its responsibilities under section 118 of the *National Energy Board Act* with respect to the licensing of natural gas exports. The MBP sets out the procedure by which the Board assesses the merits of applications to obtain a licence for the long-term export of natural gas from Canada.

Applications filed with the Board must meet the filing requirements contained in the Board's *Part VI (Oil and Gas) Regulations* and must address the criteria contained in the Board's *Reasons for Decision - Proposed Changes to the Application of the Market-Based Procedure - GHW-1-91 - May 1992*.

Applicants are reminded that the MBP contains an Export Impact Assessment ("EIA"), the purpose of which is to allow the Board to determine whether a proposed export is likely to cause Canadians difficulty in meeting their energy requirements at fair market prices. Applicants have the option of filing their own analysis or adopting the Board's EIA. The Board's most recent EIA is contained in Chapter 6 of its report entitled *Canadian Energy Supply and Demand 1993-2010* which was released in December 1994. The Board also reminds applicants that, if the proposed export covers a period beyond the Board's EIA (i.e. 2010), they should submit evidence to demonstrate that the export would not cause Canadians difficulty in meeting their energy requirements at fair market prices for the period beyond 2010.

The Board has adopted the necessary connection test described in its *Reasons for Decision* in GH-3-94 as its procedure in this hearing for considering when upstream environmental effects will be relevant to its determination of an application. Applicants are therefore requested to file information sufficient to determine if the applied-for export licence and new upstream facilities or activities are integrated to the extent that they can be seen to form part of a single course of action. If such new facilities or activities will be constructed or undertaken, applicants are requested to file an assessment of the potential environmental effects of those new facilities or activities on matters subject to federal jurisdiction and any directly related social effects. If applicable, this requirement may be met by filing:

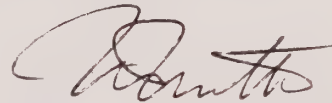
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- (i) a description of the environmental aspects of the regulatory regime applicable to the facility or activity in question;
- (ii) all government authorizations received;
- (iii) environmental assessments submitted in seeking these government authorizations; and
- (iv) a description of any environmental mitigative measures to which the applicant is committed.

Following the 20 February 1997 filing deadline, the Board will issue its hearing order and directions on procedure for those applications which are to be included.

Yours truly,

A handwritten signature in dark ink, appearing to read 'M. L. Mantha', with a large, sweeping initial 'M'.

M. L. Mantha  
A/Secretary



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- N53

Government  
Publication

# NATIONAL ENERGY BOARD

## NOTICE TO INTERESTED PARTIES

30 January 1997

### **National Energy Board issues: *Guidance Notes for Applicants: Applications for Declarations of Significant Discovery and Commercial Discovery***

Following the discovery of oil or gas in the north or in offshore areas not subject to a federal/provincial shared management agreement, the Board is responsible for making a declaration of Significant Discovery, that is, recognizing that a discovery has been made and defining the lands to which the accumulation of oil or gas may extend. Application to the Board to declare a Significant Discovery is made by the holder of the interest prior to expiry of the interest. The Board may also declare a Significant Discovery on its own initiative, or may amend declarations or revoke previous declarations based on additional drilling.

Once the declaration of Significant Discovery has been made, the interest owner may apply to the Minister of Indian and Northern Affairs Canada (INAC) for northern onshore and offshore areas, or to the Minister of Natural Resources Canada for offshore areas not under the jurisdiction of INAC and not subject to Accord Agreements for a Significant Discovery Licence which holds the lands described in the declaration.

If an operator plans to develop a discovery for production, the operator may apply to the Board for a declaration of Commercial Discovery, defined as the area containing petroleum reserves that justifies the investment of capital and effort for production development. The Board may also declare a Commercial Discovery on its own initiative, or may amend declarations or revoke previous declarations based on additional drilling.

A declaration of Commercial Discovery enables the interest holder to apply to the responsible minister for a Production Licence which conveys title to the produced oil and gas. The Board is responsible for approving a development plan for production

#### **For information:**

Paul Price  
Evaluation Geologist  
(403) 299-3106

#### **For a copy of the Guidance Notes:**

Regulatory Support Office  
311 Sixth Avenue S.W.  
Calgary, AB T2P 3H6  
Telephone: (403) 292-4800  
Fax: (403) 292-5503

at the NEB office:

Library, Ground Floor



# OFFICE NATIONAL DE L'ÉNERGIE

**AVIS AUX PARTIES INTÉRESSÉES**

**Le 30 janvier 1997**

**L'Office national de l'énergie a diffusé un document intitulé: *Notes à l'intention du demandeur - Demandes de déclaration de découverte importante et de déclaration de découverte exploitable***

Suite à la découverte de pétrole ou de gaz dans le Nord ou dans une zone extracôtière non assujettie à un accord fédéral-provincial de gestion conjointe, l'ONÉ est chargé de faire une déclaration de découverte importante, soit reconnaître qu'une découverte a été faite et définir les terres sur lesquelles le gisement de pétrole ou de gaz peut s'étendre. La demande de déclaration de découverte importante est faite par l'indivisaire intéressé auprès de l'ONÉ avant l'expiration du titre. L'ONÉ peut aussi faire une déclaration de découverte importante de sa propre initiative, et, d'après les résultats d'autres forages, modifier une déclaration ou annuler une déclaration antérieure.

Lorsque l'ONÉ a fait la déclaration de découverte importante, l'indivisaire peut demander au ministre des Affaires indiennes et du Nord Canada (MAINC), pour les zones continentales et extracôtières du Nord, ou à la ministre de Ressources naturelles Canada, pour les zones extracôtières qui ne relèvent pas de la compétence du MAINC et qui ne sont pas assujetties à un accord, une attestation de découverte importante qui étend le titre aux terres décrites dans la déclaration.

S'il prévoit exploiter la découverte, l'exploitant peut demander à l'ONÉ une déclaration de découverte exploitable, définie comme étant un lieu de réserves d'hydrocarbures suffisantes pour justifier les investissements et les travaux nécessaires à leur mise en production. L'ONÉ peut aussi, d'après les résultats d'autres forages, faire une déclaration de découverte exploitable de sa propre initiative, modifier une déclaration ou annuler une déclaration antérieure.

Une déclaration de découverte exploitable permet à l'indivisaire de demander au ministre concerné une licence de production qui confère le titre aux hydrocarbures produits. L'ONÉ est chargé d'approuver un plan de développement pour la mise en production.

**Pour plus d'information, contactez:**

Paul Price  
Géologue, Évaluation  
(403) 299-3106

**Pour une copie des Notes, contactez:**

Bureau de soutien à la réglementation  
311 - 6<sup>e</sup> Avenue s.-o.  
Calgary (Alberta)  
T2P 3H2  
Téléphone : (403) 292-4800  
Télécopieur : (403) 292-5503

**aux bureaux de l'Office :**

Bibliothèque, rez-de-chaussée

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National Energy Board



Office national de l'énergie

File No.: 132-1

Revised 2 April 1997

**MEMORANDUM OF GUIDANCE TO INTERESTED PARTIES CONCERNING  
FULL IMPLEMENTATION OF THE SEPTEMBER 1988  
CANADIAN ELECTRICITY POLICY**

**INTRODUCTION**

This Memorandum of Guidance ("MOG"), replaces that of 7 July 1993. It is being issued because the National Energy Board Electricity Regulations became law with their publication in the Canada Gazette Part II on 19 March 1997. This MOG also reflects process revisions based on the Board's experience with processing electricity applications since the issuance of the 1993 MOG.

**THE NATIONAL ENERGY BOARD ACT ("NEB ACT")**

Under the NEB Act, electricity exports and the construction and operation of international power lines will normally be authorized by issuance of a permit, without a public hearing, unless the Governor in Council, upon the recommendation of the Board, designates a proposed export or an international power line for, respectively, licensing or certification procedures. In determining whether to make such a recommendation to the Governor in Council, the Board shall seek to avoid the duplication of measures taken by the applicant and the government of the province from which electricity is to be exported or through which a line is to pass, and shall have regard to all considerations that appear to it to be relevant including any comments submitted by interested parties.

In the case of a **proposed export**, those considerations shall include:

- (a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;
- (b) the impact of the exportation on the environment;
- (c) whether the applicant has
  - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and





- (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada<sup>1</sup>, and
- (d) such considerations as may be specified in the National Energy Board Electricity Regulations ("the Electricity Regulations")<sup>2</sup>.

Similarly, in the case of a **proposed international power line**, those considerations shall include:

- (a) the effect of the power line on provinces other than those through which the line is to pass;
- (b) the impact of the construction or operation of the power line on the environment; and
- (c) such considerations as may be specified in the Electricity Regulations.

With respect to environmental regulation of international power lines, the Board has obligations under the *Canadian Environmental Assessment Act*. These obligations have been incorporated into the Electricity Regulations.

Before issuing an export permit, the Board will examine the application and supporting information, the submissions of interested parties, and any other information that the Board might require to be furnished by the applicant<sup>3</sup>. Permits issued by the Board are not subject to Governor in Council approval. However, the Governor in Council may, up to 45 days following the issuance of a permit by the Board, issue an order revoking the permit and requiring that a proposed export or international power line be designated for a licensing or a certification process.

The Board may, based on its examination of the adequacy of the application and any information submitted by interested parties, recommend to the Governor in Council that a

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<sup>1</sup> This process is referred to as providing fair market access.

<sup>2</sup> Attached as Appendix II to this MOG.

<sup>3</sup> The Board may within a reasonable time after publication of the notice of the application, require, pursuant to section 58.13 and/or section 119.05, the applicant to furnish such information, in addition to that required to accompany the application, as the Board considers necessary which may include, among other things, information pertaining to matters raised by interested parties in their submissions.



proposed export of electricity or an international power line be designated for a licensing or certification process requiring a public hearing.

Following the issuance of such a recommendation, which would be made public, if the Governor in Council does not make an order designating the proposed export or international power line for a licensing or certification process, the Board shall issue a permit. Any permit issued by the Board is subject to such terms and conditions respecting any of the matters prescribed in the Electricity Regulations as may be imposed by the Board.

In the event that the Governor in Council does make an order designating a proposed export or international power line application for a licensing or certification process, the Board shall hold a public hearing and have regard to all considerations that appear to it to be relevant. Any licence or certificate that is issued by the Board is subject to the approval of the Governor in Council, and to such terms and conditions as the Board may impose.

The maximum period of any licence or permit to export electricity is 30 years from a date to be fixed in the respective authorization.

Under the NEB Act, detailed routing and land acquisition in respect of international power lines will be carried out under provincial laws unless an applicant elects, pursuant to section 58.23 of the NEB Act, to have federal laws apply. In that case, the detailed routing and land acquisition procedures of the NEB Act will apply. Also, pursuant to such an election, the procedure to be followed for project approval will be a certification process requiring Governor in Council approval.

The Board reminds all parties that submissions, responses and information requests need not be filed on all parties to the application, but only upon the Board, the applicant and the submitter. Filings on any other party to an application shall be as directed by the Board.

## **PROCEDURES FOR PROCESSING EXPORT AND INTERNATIONAL POWER LINE APPLICATIONS UNDER THE NEB ACT**

### **Early Public Notification Requirements**

Parties applying for international power line authorizations, (i.e. permits, or certificates) pursuant to sections 58.11 or 58.16 of the NEB Act are reminded that they must comply with Part II of the Board's 22 February 1995 Guidelines for Filing Requirements.

### **General Public Notice Requirements**

**In all cases, applicants for authorizations to export electricity or to construct and operate an international power line shall, at the time of filing an application with the Board,**

publish a Notice of Application and Directions on Procedure ("NOA/DOP")<sup>4</sup>, in both official languages, in the Canada Gazette, Part I, in accordance with section 58.12 or 119.04 of the Act.

**In addition, for electricity export applications by applicants with service areas and/or who own generation, or their affiliates, for other than border accommodation transfers<sup>5</sup>, applicants are directed:**

- (a) to serve a copy of their application and NOA/DOP on each utility from which exports are proposed, and on directly interconnected Canadian utilities, and
- (b) to publish the NOA/DOP on the same date (insofar as it is possible to do so) as publication occurs in the Canada Gazette, Part 1 as follows:
  - (1) in English in the largest paid general circulation English language newspaper and in French in the largest paid general circulation French language newspaper, published in the most populous community in the service area(s) from which the proposed exports may originate;
  - (2) if the community referred to in (b)(1) is not served by a general circulation English and a general circulation French language newspaper, the NOA/DOP must be published in both official languages in the newspaper which has the largest paid circulation in that community.

In those cases where exports are proposed from more than one service area, publication may be made in both official languages in accordance with (b)(1) or (2) above or in a nationally published newspaper.

**For applications for a permit to construct and operate an international power line exceeding an operating voltage of 50 kilovolts**, applicants are directed to serve a copy of their application on each directly interconnected Canadian electricity transmission owner and to publish the NOA/DOP on the same date (insofar as it is possible to do so) as publication occurs in the Canada Gazette, Part I, and in accordance with paragraphs (b)(1) or (2) above.

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<sup>4</sup> Examples of NOA/DOPs are attached for export applications (Appendix I(a)), border accommodations (Appendix I(b)) and international power lines (Appendices I(c) and I(d)).

<sup>5</sup> A border accommodation transfer means a transfer of power or energy for the purpose of providing electricity to a person in a foreign country who lacks ready access to services from a power system in that country, or to an international work (i.e. bridge, tunnel, etc.), or to a person in a foreign country who has lost service from a power system of that country as a result of an emergency.

**For lines of an operating voltage not exceeding 50 kilovolts, applicants are required to publish the NOA/DOP in the Canada Gazette as noted above, and in accordance with (b)(1) or (2) above.**

**Note:** It is the responsibility of the applicants to ensure that correct notices in English and French are published to reach both language groups.

If applicants wish a variance from the requirements to publish notices in the above noted newspapers because of the limited and/or local nature of their application, they may request relief from the Board prior to filing their application with the Board. Such a request shall include a proposed alternative, for prior Board approval, for the publication of the NOA/DOP in local newspapers or bulletins, as appropriate, in order to inform potentially affected interested parties.

Applicants shall file with the Board, as soon as possible after the date of publication in the newspapers, copies of each newspaper tear sheet showing the NOA/DOP as published.

#### **Information to be Furnished by Applicants**

- (a) Applicants for authorizations to export electricity are required to furnish the information as set out in section 8 or section 9 of the Electricity Regulations. The information set out in section 8 is required to be furnished by applicants for authorizations for border accommodation transfers and the information set out in section 9 is required to be furnished by all other applicants. In addition, in accordance with section 119.05 of the NEB Act, the Board may require the applicant to furnish additional information to help it determine whether it wishes to recommend that a proposed export be designated for a licensing process.
- (b) Applicants for authorization to construct and operate an international power line are required to furnish the information as set out in section 4 or section 5 of the Electricity Regulations. The information set out in section 4 is required to be furnished by applicants proposing to construct and operate international power lines not exceeding an operating voltage of 50 kilovolts and the information set out in section 5 is required to be furnished by all other applicants. In addition, in accordance with Section 58.13 of the NEB Act the Board may require the applicant to furnish additional information to help it determine whether to recommend that a proposed international power line be designated for a certification process.

#### **Processing Procedures**

Persons wishing to make a submission advocating the imposition of permit terms and conditions, or a recommendation by the Board to the Governor in Council requesting designation for licensing/certification procedures, must provide information to support their submission.



Submitters are advised that they should raise all their concerns in their initial submission. However, submitters will have the final right of reply in permit applications.

Upon submission of an application to the Board, the following procedure will apply:

Following publication by the applicant of the NOA/DOP and verification by the Board of all required information, and after a 30-day period from the date of publication of the NOA/DOP to allow for comments by interested parties, the Board will either

- (a) **if no submissions are received** and if the application conforms with the requirements of the NEB Act, issue a permit<sup>6</sup>, which shall be sent to the applicant,
- (b) **if submissions are received**, allow a further 15-day period for the applicant to answer the submissions and a further 10 days for the submitter to reply to the applicant's response to his submission.

Following the time to allow for the filing of responses as outlined in (b) above, the Board will, based on its examination of the application and the submissions and responses, issue a permit<sup>6</sup> or make a recommendation to the Governor in Council for designation of the application. If a permit is issued, a copy of the permit will be sent to the applicant and to all interested parties.

### **Terms and Conditions of Permits**

The matters in respect of which terms and conditions may be imposed relating to international power line permits are set out in section 6 and those relating to export permits are set out in section 10 of the Electricity Regulations.

### **Detailed Routing of International Power Lines**

Applicants who wish to have the detailed routing and land acquisition procedures of the Act apply to an existing or proposed international power line are required to file an election in the form set out in the schedule to the Electricity Regulations.

Any inquiries with respect to the implementation measures described in this Memorandum of Guidance should be directed to the Electric Division at (403) 299-3165, FACSIMILE (403) 292-5503.

French or English versions of this document are available from the Board, on request.

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<sup>6</sup> Subject to such terms and conditions respecting matters prescribed by the Electricity Regulations as the Board considers necessary or desirable.



Applicants are requested to file, with the Board, the following number of copies in support of applications.

**International Power Lines**

Permits -	15
Certificates -	15
Certificate/Permit Amendments -	15
Certificate/Permit Revocations -	15

**Electricity Exports**

Permits -	15
Licence/ Permit Amendments -	15
Licence/Permit Revocations -	15



M. L. Mantha  
A/Secretary

Attach.



**EXAMPLE OF NOTICE TO BE PUBLISHED  
FOR ELECTRICITY EXPORTS**

**Notice of Application and Directions on Procedure  
Alpha Electric  
Application to Export Electricity to the Omega Power Authority  
of the United States**

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By an application dated 1 July 1997, Alpha Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Division II of Part VI of the *National Energy Board Act* ("the Act") for authorization to export 500 megawatts of firm power and 2 000 gigawatt-hours per year of firm energy for a period of 5 years commencing on 1 November 1997. This export would be in accordance with the terms of the firm power and energy contract between Alpha Electric and the Omega Power Authority executed on 1 June 1997.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (the Applicant's address/and include other communication numbers) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403) 292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1997).
3. Pursuant to Section 119.06(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:
  - (a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;

- (b) the impact of the exportation on the environment; and
  - (c) whether the Applicant has:
    - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
    - (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada.
4. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1997).
  5. Any reply that submitters wish to present in response to item 4 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 4 above, i.e. 25 August 1997).
  6. For further information on the procedures governing the Board's examination, contact M.L. Mantha A/Secretary (403) 299-2711, facsimile: (403) 292-5503.



**EXAMPLE OF NOTICE TO BE PUBLISHED FOR  
BORDER ACCOMMODATIONS**

**Notice of Application and Directions on Procedure  
Alpha Electric  
Application for Authorization to Export  
Electricity**

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Alpha Electric (include the Applicant's address/and other communication numbers) hereby gives notice that it has, under Division II of Part VI of the *National Energy Board Act*, filed an application dated 1 July 1997 with the National Energy Board for authorization to export energy to the Omega Power Authority of the United States. The export will be for the period 1 September 1997 to 31 August 2004, up to a maximum of 1 megawatt.

Written submissions in respect of the application shall be filed with the Secretary, National Energy Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403) 292-5503, and with Alpha Electric by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1997).

Any answer to such submissions that the Applicant wishes to present shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the above date, i.e. 15 August 1997).

Any reply that parties wish to present in response to the Applicant shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the above date, i.e. 25 August 1997).

For further information on the procedures governing the Board's examination, contact M.L. Mantha A/Secretary (403) 299-2711, facsimile: (403) 292-5503.



**EXAMPLE OF NOTICE TO BE PUBLISHED FOR  
INTERNATIONAL POWER LINES  
EXCEEDING 50 KILOVOLTS**

**Notice of Application and Directions on Procedure  
Alpha Electric  
Application to Construct and Operate an International Power Line  
to the Beta Power Company of the United States**

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By an application dated 1 July 1997, Alpha Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Part III.1 of the *National Energy Board Act* ("the Act") for authorization to construct and operate a 345 000 volt three-phase international power line. The line would extend a distance of approximately 20 km southward from the (X) substation, located in (Location) in Canada, to the northern perimeter of the town of (Location), then southwest a further 50 km to a point on the international boundary located at (Location). The line would be constructed in accordance with the terms of the contract between Alpha Electric and the Beta Power Company executed on 1 June 1997.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (insert Applicant's address/and include other communication numbers) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403) 292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1997).
3. Pursuant to Section 58.14(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:

- (a) the effect of the power line on provinces other than those through which the line is to pass; and
  - (b) the impact of the construction or operation of the power line on the environment.
- 4. As part of its consideration of the environmental effects of the proposed facilities, the Board will apply the *Canadian Environmental Assessment Act* ("CEAA"). The Board will ensure that there is no duplication in requirements under the CEAA and the Board's own regulatory process.
  - 5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1997).
  - 6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1997).
  - 7. For further information on the procedures governing the Board's examination, contact M.L. Mantha A/Secretary (403) 299-2711, facsimile: (403) 299-5503.



**EXAMPLE OF NOTICE TO BE PUBLISHED FOR  
INTERNATIONAL POWER LINES NOT EXCEEDING  
AN OPERATING VOLTAGE OF 50 KILOVOLTS**

**Notice of Application and Directions on Procedure  
Alpha Electric  
Application for Authorization to Construct and Operate  
an International Power Line**

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Alpha Electric (include the Applicant's address/and other communication numbers) hereby gives notice that it has, under Part III.1 of the *National Energy Board Act*, filed an application dated 1 July 1997, with the National Energy Board for authorization to construct and operate a 25 000 volt three-phase international power line. The line would extend a distance of approximately 2 km southward from the (X) substation, located in (Location) in Canada, to the northern perimeter of the town of (Location), then southwest a further 1 km to a point on the international boundary located at (Location).

Written submissions in respect of the application shall be filed with the Secretary, National Energy Board, 311 - Sixth Avenue, Calgary, Alberta, T2P 3H2, facsimile: (403) 292-5503, and with Alpha Electric by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1997).

As part of its consideration of the environmental effects of the proposed facilities, the Board will apply the *Canadian Environmental Assessment Act* ("CEAA")<sup>1</sup>. The Board will ensure that there is no duplication in requirements under the CEAA and the Board's own regulatory process."

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<sup>1</sup> Electrical transmission lines with a voltage of not more than 50 kV are contained within the *Exclusion List Regulations* and are therefore not subject to an environmental assessment under CEAA, except where it would be (a) carried out beyond an existing right-of-way; (b) extend more than 4 km outside Canada; (c) involve the likely release of a polluting substance into a waterbody; and (d) involve the placement of the supporting structures for the line in or on or within 30 m of a water body.

Any answer to such submissions that the Applicant wishes to present shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the above date, i.e. 15 August 1997).

Any reply that parties wish to present in response to the Applicant shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the above date, i.e. 25 August 1997).

For further information on the procedures governing the Board's examination, contact M.L. Mantha A/Secretary (403) 299-2711, facsimile: (403) 292-5503.

## APPENDIX II

### REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF THE NATIONAL ENERGY BOARD ACT RESPECTING INTERNATIONAL POWER LINES AND THE EXPORTATION OF ELECTRICITY

#### NOTICE

In subsection 9(j) of the regulations, the reference to subsection (j) in the body of the subsection should refer to subsection (i).





Registration  
SOR/97-130 4 March, 1997

NATIONAL ENERGY BOARD ACT

## National Energy Board Electricity Regulations

P.C. 1997-283 4 March, 1997

His Excellency the Governor General in Council, on the recommendation of the Minister of Natural Resources, pursuant to sections 58.39<sup>a</sup> and 119.094<sup>b</sup> of the National Energy Board Act, is pleased hereby to make the annexed Regulations for carrying into effect the provisions of the National Energy Board Act respecting international power lines and the exportation of electricity.

### REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF THE NATIONAL ENERGY BOARD ACT RESPECTING INTERNATIONAL POWER LINES AND THE EXPORTATION OF ELECTRICITY

#### SHORT TITLE

1. These Regulations may be cited as the *National Energy Board Electricity Regulations*.

#### INTERPRETATION

2. In these Regulations,

“Act” means the *National Energy Board Act*; (*Loi*)

“adjustment transfer” means a transfer of power or energy to adjust energy account balances or to compensate for services rendered; (*transfert en vue d'un redressement*)

“border accommodation transfer” means a transfer of power or energy for the purpose of providing electricity to

(a) a person in the United States who lacks ready access to services from a power system in that country,

(b) a work that is located in part in Canada and in part in the United States, or

(c) a person in the United States who has lost service from a power system in that country as a result of an emergency; (*transfert en vue d'un service frontalier*)

“carrier transfer” means a transfer of power or energy wheeled from one power system, through the circuits of another power system that acts as a carrier, for delivery to a third party or to the original power system; (*transfert relatif au transport*)

“electricity transfer” means a transfer of any of the following classes, namely

(a) a sale transfer,

(b) an exchange transfer

(c) an adjustment transfer,

(d) a carrier transfer, or

(e) storage transfer; (*transfert d'électricité*)

Enregistrement  
DORS/97-130 4 mars 1997

LOI SUR L'OFFICE NATIONAL DE L'ÉNERGIE

## Règlement de l'Office national de l'énergie concernant l'électricité

C.P. 1997-283 4 mars 1997

Sur recommandation de la ministre des Ressources naturelles et en vertu des articles 58.39<sup>a</sup> et 119.094<sup>b</sup> de la Loi sur l'Office national de l'énergie, il plaît à Son Excellence le Gouverneur général en conseil de prendre le Règlement d'application des dispositions de la Loi sur l'Office national de l'énergie concernant les lignes internationales de transport d'électricité et l'exportation d'électricité, ci-après.

### RÈGLEMENT D'APPLICATION DES DISPOSITIONS DE LA LOI SUR L'OFFICE NATIONAL DE L'ÉNERGIE CONCERNANT LES LIGNES INTERNATIONALES DE TRANSPORT D'ÉLECTRICITÉ ET L'EXPORTATION D'ÉLECTRICITÉ

#### TITRE ABRÉGÉ

1. *Règlement de l'Office national de l'énergie concernant l'électricité.*

#### DÉFINITIONS

2. Les définitions qui suivent s'appliquent au présent règlement.

« avis » Avis de la demande de permis publié par le demandeur conformément aux articles 58.12 ou 119.04 de la Loi. (*notice*)

« capacité de transfert de puissance » Quantité de puissance qu'on peut transférer d'un réseau d'électricité à un autre tout en respectant les critères de fiabilité des réseaux interconnectés. (*power transfer capability*)

« effets environnementaux » À l'égard du projet :

a) les changements que la réalisation du projet risque de causer à l'environnement, y compris les répercussions de ceux-ci soit en matière sanitaire et socioéconomique, soit sur l'usage courant des terres et des ressources à des fins traditionnelles par les Autochtones, soit sur une construction, un emplacement ou une chose d'importance en matière historique, archéologique, paléontologique ou architecturale;

b) les incidences environnementales des défaillances ou des accidents pouvant se produire, ainsi que les incidences cumulatives que la réalisation du projet, combinée à la réalisation d'autres projets ou activités, est susceptible de causer à l'environnement;

c) les changements susceptibles d'être apportés au projet du fait de l'environnement. (*environmental effect*)

« énergie » Quantité totale d'énergie sous forme d'électricité transmise au cours d'une période donnée, exprimée en watt-heures ou en multiples ou sous-multiples du wattheure. (*energy*)

<sup>a</sup> S.C. 1990, c. 7, s. 23

<sup>b</sup> S.C. 1990, c. 7, s. 34

<sup>a</sup> L.C. 1990, ch. 7, art. 23

<sup>b</sup> L.C. 1990, ch. 7, art. 34



“energy” means the total quantity of energy in the form of electricity transmitted over a period of time, expressed in units of watt hours or multiples or sub-multiples of watt hours; (*énergie*)

“environmental effect” means, in respect of a project,

(a) any change that the project may cause in the environment, including any effect of any such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by Aboriginal persons, or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance,

(b) repercussions on the environment of malfunctions or accidents that may occur and any cumulative repercussions on the environment that are likely to result from the project in combination with other projects or activities that have been or will be carried out, and

(c) any change to the project that may be caused by the environment; (*effets environnementaux*)

“equichange transfer” means an interchange of equal quantities of power or energy within a stated period; (*transfert d'équivalents*)

“firm energy” means energy that is intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (*énergie garantie*)

“firm power” means power or power-production capacity that is intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (*puissance garantie*)

“interruptible energy” means energy that is made available under an agreement that permits curtailment, interruption or cessation of delivery at the option of the supplier; (*énergie interruptible*)

“interruptible power” means power that is made available under an agreement that permits curtailment, interruption or cessation of delivery at the option of the supplier; (*puissance interruptible*)

“notice” means a notice of the application for a permit, published by the applicant in accordance with section 58.12 or 119.04 of the Act; (*avis*)

“permit” means an authorization for

(a) the construction and operation of an international power line issued under Part III.1 of the Act, or

(b) the exportation of electricity issued under Part VI of the Act; (*permis*)

“power” means the rate of transferring energy, expressed in units of watts or multiples or sub-multiples of watts; (*puissance*)

“power line outside Canada” means that part of a power line in the United States that is between its connection to the international power line at the border and the first switching station in the United States; (*ligne située à l'étranger*)

“power system” includes the generating stations, transformers, switching stations, transmission lines, substations, distribution lines and circuits necessary for the production, transmission and distribution of electricity; (*réseau d'électricité*)

“power transfer capability” means the amount of power that can be transferred from one power system to another without impairing the reliability criteria of the interconnected systems; (*capacité de transfert de puissance*)

“sale transfer” means a transfer of power or energy under a contract of sale; (*transfert relatif à la vente*)

« énergie garantie » Énergie devant être disponible durant des périodes déterminées pour la durée d'un contrat de vente. (*firm energy*)

« énergie interruptible » Énergie fournie aux termes d'un contrat selon lequel les livraisons peuvent être réduites, interrompues ou supprimées au gré du fournisseur. (*interruptible energy*)

« ligne située à l'étranger » La partie d'une ligne de transport d'électricité située aux États-Unis qui s'étend du point, sur la frontière, où elle est connectée à la ligne internationale jusqu'au premier poste de commutation situé dans ce pays. (*power line outside Canada*)

« Loi » La Loi sur l'Office national de l'énergie. (*Act*)

« permis » Autorisation permettant :

a) soit la construction et l'exploitation d'une ligne internationale en vertu de la partie III.1 de la Loi;

b) soit l'exportation d'électricité en vertu de la partie VI de la Loi. (*permit*)

« puissance » Régime de transfert de l'énergie, exprimé en watts ou en multiples ou sous-multiples du watt. (*power*)

« puissance garantie » Puissance ou capacité de production de puissance devant être disponible durant des périodes déterminées pour la durée d'un contrat de vente. (*firm power*)

« puissance interruptible » Puissance fournie aux termes d'un contrat selon lequel les livraisons peuvent être réduites, interrompues ou supprimées au gré du fournisseur. (*interruptible power*)

« réseau d'électricité » Vise notamment les centrales, transformateurs, postes de commutation, lignes de transport d'électricité, sous-postes, lignes de distribution et circuits nécessaires à la production, au transport et à la distribution de l'électricité. (*power system*)

« transfert d'électricité » Transfert de l'une des catégories suivantes :

a) transfert relatif à la vente;

b) transfert d'équivalents;

c) transfert en vue d'un redressement;

d) transfert relatif au transport;

e) transfert en vue du stockage. (*electricity transfer*)

« transfert d'équivalents » Échange de quantités égales de puissance ou d'énergie au cours d'une période déterminée. (*equichange transfer*)

« transfert en vue d'un redressement » Transfert de puissance ou d'énergie effectué aux fins du redressement des comptes de fourniture d'énergie ou en contrepartie des services rendus. (*adjustment transfer*)

« transfert en vue d'un service frontalier » Transfert de puissance ou d'énergie visant à fournir de l'électricité :

a) soit à une personne des États-Unis qui n'a pas accès de façon immédiate aux services d'un réseau d'électricité dans ce pays;

b) soit à un ouvrage situé en partie au Canada et en partie aux États-Unis;

c) soit à une personne des États-Unis qui, en raison d'une situation d'urgence, ne reçoit plus les services d'un réseau d'électricité dans ce pays. (*border accommodation transfer*)

« transfert en vue du stockage » Transfert d'une quantité d'énergie accumulée, à l'époque considérée, sous forme de volume d'eau retenue dans le réservoir d'un autre réseau



"storage transfer" means a transfer of energy that is banked for the time being in the form of water in a reservoir of another power system, in the expectation that equivalent energy will be returned at a later time. (*transfert en vue du stockage*)

d'électricité, en prévision de la remise d'une quantité équivalente d'énergie à une date ultérieure. (*storage transfer*)

« transfert relatif à la vente » Transfert de puissance ou d'énergie aux termes d'un contrat de vente. (*sale transfer*)

« transfert relatif au transport » Transfert de puissance ou d'énergie d'un réseau d'électricité en vue de la livraison à un tiers ou au réseau d'électricité d'origine par l'intermédiaire des circuits d'un autre réseau d'électricité faisant office de transporteur. (*carrier transfer*)

## PART I

### INSPECTION

3. (1) A member of the Board or any person who has the relevant training or experience and who is authorized by the Board in writing for the purpose may, with respect to any licence or permit issued under Division II of Part VI of the Act, inspect any instruments, devices, plant, equipment, books, records or accounts or any other thing used for or in connection with the exportation of electricity, and conduct any tests that are necessary to conduct the inspection.

(2) A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall produce the authorization when requested to do so during the exercise of those powers.

(3) Every person who is the operator or is in charge of any of the premises or things referred to in subsection (1) shall permit a member of the Board or a person authorized by the Board to exercise the powers referred to in that subsection and shall assist the member or person in exercising those powers.

## PART II

### INFORMATION TO BE FURNISHED BY APPLICANTS FOR PERMITS FOR THE CONSTRUCTION AND OPERATION OF INTERNATIONAL POWER LINES

#### *International Power Lines of Less than 50 kV*

4. An application for a permit for the construction and operation of an international power line that does not exceed an operating voltage of 50 kV shall contain the following information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application:

- (a) the name of the applicant and any authorized representative of the applicant and their mailing address, address for personal service, telephone number and any other telecommunications numbers of the applicant or the authorized representative of the applicant;
- (b) the name and address of the owner and of the operator of the international power line in Canada, if the identity of the owner or operator is different from that of the applicant;
- (c) a proof of publication of the notice;
- (d) a description of any early public notification process implemented by the applicant;
- (e) a map, on a scale sufficient to locate and identify all essential features, showing

## PARTIE I

### INSPECTION

3. (1) Un membre de l'Office ou toute personne qui possède la formation ou l'expérience pertinente et qui est autorisée par écrit par l'Office peut, en ce qui concerne une licence ou un permis délivrés en vertu de la section II de la partie VI de la Loi, inspecter tout ce qui sert ou se rattache à l'exportation d'électricité, notamment les instruments, appareils, usines, matériel, livres, registres ou comptes, et effectuer les essais nécessaires à cette fin.

(2) Le titulaire de l'autorisation visée au paragraphe (1) présente celle-ci, sur demande, pendant l'exercice de ses pouvoirs.

(3) L'exploitant ou le responsable de tout lieu ou objet mentionné au paragraphe (1) permet au membre de l'Office ou à la personne autorisée d'exercer les pouvoirs conférés par ce paragraphe et lui fournit l'aide nécessaire.

## PARTIE II

### RENSEIGNEMENTS À FOURNIR PAR LE DEMANDEUR D'UN PERMIS DE CONSTRUCTION ET D'EXPLOITATION D'UNE LIGNE INTERNATIONALE DE TRANSPORT D'ÉLECTRICITÉ

#### *Lignes internationales dont la tension n'excède pas 50 kV*

4. La demande d'un permis de construction et d'exploitation d'une ligne internationale dont la tension de service n'excède pas 50 kV doit contenir les renseignements suivants, à moins que l'Office n'informe le demandeur que ceux-ci sont déjà en sa possession ou qu'ils ne sont pas pertinents :

- a) les noms du demandeur et de son mandataire ainsi que leur adresse postale, leur adresse pour signification à personne, leur numéro de téléphone et tout autre numéro de télécommunications;
- b) les nom et adresse du propriétaire et ceux de l'exploitant de la ligne internationale au Canada, s'il ne s'agit pas du demandeur;
- c) une preuve de la publication de l'avis;
- d) une description du processus suivi par le demandeur, le cas échéant, pour donner un préavis au public;
- e) une carte dressée à une échelle suffisante pour permettre de repérer les éléments essentiels, indiquant :
  - (i) les points d'arrivée, le tracé général, le point de traversée à la frontière internationale et la distance en kilomètres



- (i) all terminal points, the general route, the international boundary crossover point and the distance in kilometres from the international boundary crossover point to each terminal point of the international power line in and outside Canada,
- (ii) the provinces, cities, towns, villages, park boundaries, rivers, major roads, railways and navigable waters through, under or across which the international power line is to pass, and
- (iii) the power line outside Canada;
- (f) a plan of survey from which the international boundary crossover point can be accurately determined on the ground;
- (g) the name and address of the owner and the operator of the power line outside Canada;
- (h) a brief engineering description of the international power line, including:
  - (i) the voltage level,
  - (ii) the number and size of conductors,
  - (iii) the maximum power transfer capability, and
  - (iv) a single-line diagram identifying all the facilities that constitute the international power line;
- (i) a copy of any agreement between the applicant and the owner or the operator of the power line outside Canada dealing with the construction and operation of the international power line and the power line outside Canada;
- (j) in respect of environmental concerns,
  - (i) evidence to demonstrate that a screening is not required under the *Canadian Environmental Assessment Act* because the international power line is of a project or class that is listed in the *Exclusion List Regulations*, or
  - (ii) a description of the environmental effects, including a consideration of the following factors, namely,
    - (A) the significance of the environmental effects,
    - (B) comments received from the public, and
    - (C) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects;
- (k) a description of the approvals that are required to be obtained from all of the provinces through which the international power line will pass and a statement respecting the current status of the approvals; and
- (l) a description of any approvals that are required for the construction and operation of the power line outside Canada and a statement respecting the current status of the approvals.

*International Power Lines Greater than 50 kV*

5. An application for a permit for the construction and operation of an international power line that exceeds an operating voltage of 50 kV shall contain the following information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application:

- (a) the name of the applicant and of any authorized representative of the applicant and their mailing address, address for personal service, telephone number and any other telecommunications numbers of the applicant or the authorized representative of the applicant;
- (b) in respect of the owner and the operator of the international power line,

- séparant ce point de chacun des points d'arrivée situés sur la ligne internationale de part et d'autre de la frontière,
- (ii) la liste des provinces, villes, villages, limites de parcs, fleuves et rivières, routes principales, voies ferrées et eaux navigables que franchira la ligne internationale,
- (iii) la ligne située à l'étranger;

- f) un levé d'arpentage permettant de localiser avec précision au sol le point de traversée à la frontière internationale;
- g) les nom et adresse du propriétaire et ceux de l'exploitant de la ligne située à l'étranger;
- h) une brève description technique de la ligne internationale, indiquant notamment :
  - (i) la tension,
  - (ii) le nombre et la taille des conducteurs,
  - (iii) la capacité de transfert de puissance maximale,
  - (iv) un schéma unifilaire montrant toutes les installations qui constituent la ligne internationale ;
- i) une copie de toute entente liant le demandeur et le propriétaire ou l'exploitant de la ligne située à l'étranger et portant sur la construction et l'exploitation de la ligne internationale et de la ligne située à l'étranger;
- j) en ce qui concerne l'environnement :
  - (i) soit la preuve établissant que la ligne internationale, du fait qu'elle est un projet visé par le *Règlement sur la liste d'exclusion* ou appartient à une catégorie de projets visée par ce règlement, n'a pas à faire l'objet d'un examen préalable en application de la *Loi canadienne sur l'évaluation environnementale*,
  - (ii) soit une description des effets environnementaux portant notamment sur les facteurs suivants :
    - (A) l'importance des effets environnementaux,
    - (B) les observations envoyées par le public,
    - (C) les mesures d'atténuation, réalisables sur les plans technique et économique, des effets environnementaux négatifs importants;
- k) une description des autorisations à obtenir des provinces que la ligne internationale franchira et une indication de l'avancement des démarches entreprises à cette fin;
- l) une description des autorisations exigées pour la construction et l'exploitation de la ligne située à l'étranger et une indication de l'avancement des démarches entreprises à cette fin.

*Lignes internationales  
dont la tension excède 50 kV*

5. La demande d'un permis de construction et d'exploitation d'une ligne internationale dont la tension de service excède 50 kV doit contenir les renseignements suivants, à moins que l'Office n'informe le demandeur que ceux-ci sont déjà en sa possession ou qu'ils ne sont pas pertinents :

- a) les noms du demandeur et de son mandataire ainsi que leur adresse postale, leur adresse pour signification à personne, leur numéro de téléphone et tout autre numéro de télécommunications;
- b) quant au propriétaire et à l'exploitant de la ligne internationale :
  - (i) leurs nom et adresse, s'il ne s'agit pas du demandeur,



- (i) their names and addresses, where they are not the applicant,
- (ii) a description of the power systems that each owns or operates, and
- (iii) a copy of their most recent annual report;
- (c) a proof of publication of the notice;
- (d) a description of any early public notification process implemented by the applicant;
- (e) a map on a scale sufficient to locate and identify
  - (i) the general route and facility sites being considered,
  - (ii) the alternative route and facility sites under consideration,
  - (iii) the areas subject to physical and environmental constraints, including biophysical and land use or natural resource use constraints, that limit the general route or facility sites, and
  - (iv) the approximate sites of all proposed ancillary facilities;
- (f) a description of the environmental, land-use and other criteria used for the identification of the proposed, and any alternative, general route and major facility sites;
- (g) all terminal points and the international boundary crossover point;
- (h) the distance in kilometres from the international boundary crossover point to each terminal point;
- (i) a map, on a scale sufficient to locate and identify all essential features, showing
  - (i) all terminal points, the international boundary crossover point and the distance in kilometres from the international boundary crossover point to each terminal point of the international power line in and outside Canada,
  - (ii) the provinces, cities, towns, villages, park boundaries, rivers, major roads, railways and navigable waters through, under or across which the international power line is to pass, and
  - (iii) the power line outside Canada;
- (j) a plan of survey from which the international boundary crossover point can be accurately determined on the ground;
- (k) the name and address of the owner and of the operator of the power line outside Canada;
- (l) a copy of the most recent annual report of the owner and the operator of the power line outside Canada;
- (m) a brief engineering description of the proposed international power line, including
  - (i) the voltage level,
  - (ii) the number and size of conductors,
  - (iii) a description of the tower or other structures that will provide physical support for the international power line,
  - (iv) a single-line diagram identifying all the facilities that constitute the international power line,
  - (v) the power transfer capability for sustained transmission of power under winter and summer conditions, and
  - (vi) the criteria for the stated power transfer capability;
- (n) the total export and import power transfer capabilities, with and without the proposed international power line, of the applicant's power system and of the power system to which it will be interconnected by the international power line, stating the criteria for those capabilities;
- (ii) la description des réseaux d'électricité que chacun possède ou exploite,
- (iii) une copie de leur dernier rapport annuel;
- c) une preuve de la publication de l'avis;
- d) une description du processus suivi par le demandeur, le cas échéant, pour donner un préavis au public;
- e) une carte dressée à une échelle suffisante pour permettre de repérer :
  - (i) le tracé général et les emplacements des installations qui sont envisagés,
  - (ii) le tracé et les emplacements des installations qui sont proposés comme solutions de rechange,
  - (iii) les zones soumises à des contraintes d'ordre physique ou environnemental — y compris des contraintes biophysiques ou liées à l'utilisation des terres ou des ressources naturelles — qui influent sur le tracé général ou les emplacements des installations,
  - (iv) les emplacements approximatifs des installations auxiliaires projetées;
- f) une description des critères — environnementaux, liés à l'utilisation des terres et autres — utilisés pour déterminer le tracé général, les emplacements des installations principales et les solutions de rechange qui sont proposés;
- g) tous les points d'arrivée et le point de traversée à la frontière internationale;
- h) la distance en kilomètres séparant le point de traversée à la frontière internationale de chaque point d'arrivée;
- i) une carte dressée à une échelle suffisante pour permettre de repérer les éléments essentiels, indiquant :
  - (i) les points d'arrivée, le point de traversée à la frontière internationale et la distance en kilomètres séparant ce point de chacun des points d'arrivée situés sur la ligne internationale de part et d'autre de la frontière,
  - (ii) la liste des provinces, villes, villages, limites de parcs, fleuves et rivières, routes principales, voies ferrées et eaux navigables que franchira la ligne internationale,
  - (iii) la ligne située à l'étranger;
- j) un levé d'arpentage permettant de localiser avec précision au sol le point de traversée à la frontière internationale;
- k) les nom et adresse du propriétaire et ceux de l'exploitant de la ligne située à l'étranger;
- l) une copie du dernier rapport annuel du propriétaire et de l'exploitant de la ligne située à l'étranger;
- m) une brève description technique de la ligne internationale indiquant notamment :
  - (i) la tension,
  - (ii) le nombre et la taille des conducteurs,
  - (iii) une description du pylône ou des autres ouvrages qui soutiendront physiquement la ligne internationale,
  - (iv) un schéma unifilaire montrant toutes les installations qui constituent la ligne internationale,
  - (v) la capacité de transfert de puissance prévue pour le transport continu de puissance, en fonction des conditions estivales et hivernales,
  - (vi) les critères relatifs à la capacité de transfert de puissance déclarée;
- n) les capacités de transfert de puissance totales à des fins d'exportation et d'importation, avec et sans la ligne internationale proposée, du réseau d'électricité du demandeur et du



- (o) a copy of
- (i) each interconnection agreement that relates to the construction of the international power line, and
  - (ii) any other agreement between the applicant and the owner or the operator of the power line outside Canada that relates to the construction and operation of the international power line and the power line outside Canada;
- (p) a description of the provincial requirements and associated review process that must be satisfied, including
- (i) a description of the review process applicable to each approval that is required,
  - (ii) a description of any public consultation process provided for under the review process, and
  - (iii) a schedule for the review process;
- (q) a description of the approvals that are required to be obtained, including a statement respecting the current status of the approvals,
- (i) from all the provinces through which the international power line will pass, and
  - (ii) from the appropriate authorities for the construction or operation of the power line outside Canada;
- (r) a schedule showing the projected dates for
- (i) each approval referred to in subparagraph (q)(i), and
  - (ii) the start and completion of construction of the international power line and the power line outside Canada;
- (s) an environmental assessment report, which may consist of a screening report or a comprehensive study report done pursuant to the *Canadian Environmental Assessment Act* or a report done pursuant to provincial legislation, for the construction and operation of the international power line and of any associated temporary or permanent roads;
- (t) unless otherwise detailed in the report referred to in paragraph (s),
- (i) a map showing the proposed general route and covering a width of at least one kilometre on each side of the international power line, on a scale sufficient to clearly show the existing environment, including the surface geology, the habitats of wildlife of ecological, economic or human importance, rare and endangered plant species, spawning beds, public recreational areas, parks, historic and archaeological sites, conservation areas, Indian reserves and existing land use, and a description of the environmental components shown on the map,
  - (ii) the width of the right-of-way proposed and the reasons why that width was selected,
  - (iii) a description of the environmental effects, including a consideration of the following factors, namely,
    - (A) the significance of the environmental effects,
    - (B) comments received from the public, and
    - (C) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects,
  - (iv) the measures that would be taken to minimize any adverse visual effects of the international power line,
  - (v) the levels of the radio and television interference expected at the edge of the right-of-way under fair and foul weather conditions at maximum loading of the international power line, and the measures to be taken to minimize the potential interference,
- réseau d'électricité auquel il sera relié par la ligne internationale, assorties des critères relatifs à celles-ci;
- o) une copie :
- (i) de chaque convention d'interconnexion se rapportant à la construction de la ligne internationale,
  - (ii) de toute autre entente liant le demandeur et le propriétaire ou l'exploitant de la ligne située à l'étranger et portant sur la construction et l'exploitation de la ligne internationale et de la ligne située à l'étranger;
- p) une description des exigences provinciales ainsi que du processus d'examen connexe à respecter, indiquant notamment :
- (i) le détail du processus d'examen applicable à chaque autorisation à obtenir,
  - (ii) le détail du processus de consultation publique dont le processus d'examen est assorti, le cas échéant,
  - (iii) l'échéancier du processus d'examen;
- q) une description des autorisations à obtenir des autorités suivantes et une indication de l'avancement des démarches entreprises à cette fin :
- (i) les provinces que franchira la ligne internationale,
  - (ii) les autorités compétentes quant à la construction ou à l'exploitation de la ligne située à l'étranger;
- r) l'échéancier précisant les dates projetées pour :
- (i) l'obtention de chaque autorisation visée au sous-alinéa q)(i),
  - (ii) la mise en chantier et la fin des travaux de construction de la ligne internationale et de la ligne située à l'étranger;
- s) un rapport d'évaluation environnementale, tel un rapport d'examen préalable ou d'étude approfondie conforme à la *Loi canadienne sur l'évaluation environnementale* ou un rapport rédigé conformément aux lois provinciales, portant sur la construction et l'exploitation de la ligne internationale et des routes connexes, tant temporaires que permanentes;
- t) à moins que le rapport soumis en application de l'alinéa s) ne renferme les détails pertinents :
- (i) une carte montrant le tracé général proposé et une zone d'au moins un kilomètre de large de chaque côté de la ligne internationale, dressée à une échelle qui indique clairement le milieu environnant, notamment la géologie des formations superficielles, les habitats fauniques d'importance écologique, économique ou humaine, les espèces végétales rares ou menacées d'extinction, les frayères, les aires publiques de loisir, les parcs, les sites historiques et archéologiques, les zones de conservation, les réserves indiennes et l'utilisation actuelle des terres, ainsi qu'une description des composantes environnementales représentées sur la carte,
  - (ii) la largeur de l'emprise proposée et les raisons qui la justifient,
  - (iii) une description des effets environnementaux portant notamment sur les facteurs suivants :
    - (A) l'importance des effets environnementaux,
    - (B) les observations envoyées par le public,
    - (C) les mesures d'atténuation, réalisables sur les plans technique et économique, des effets environnementaux négatifs importants,
  - (iv) les mesures d'atténuation qui seraient prises pour réduire au minimum les effets visuels défavorables de la ligne internationale, le cas échéant,



- (vi) for operating voltages above 240 kV, the levels of noise, ozone concentration, electric field gradient and magnetic field strength expected at the edge of the right-of-way at maximum loading of the international power line, and the measures to be taken to protect people and animals, from electric shock on contacting vehicles or metallic structures,
- (vii) for any substation that forms part of the international power line, the audible noise in decibels that would be caused by the operation of the facilities, a description of the public exposure to the noise and any measures to be taken to minimize the noise,
- (viii) the pesticides and herbicides to be used in the construction and maintenance of the right-of-way, including
- (A) quantities,
  - (B) methods of application,
  - (C) potential adverse environmental effects, and
  - (D) measures to be taken to mitigate any potential harmful effects,
- (ix) the plans for surface restoration after construction and for the disposal of excavation and construction debris and wastes, and
- (x) a statement of the applicant's intentions with respect to environmental inspection of the project during construction and operation of the international power line;
- (u) for every comprehensive study report referred to in paragraph (s), in addition to the factors referred to in paragraph (t), a consideration of the following factors, namely,
- (i) the purpose of the project,
  - (ii) alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means,
  - (iii) the need for, and the requirements of, any follow-up programme in respect of the project,
  - (iv) the capacity of the renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future;
- (v) a description of any adverse effects on other provinces that operation of the proposed international power line at the power transfer capabilities referred to in paragraph (n) may have, including adverse effects on the operation of power systems in other provinces and the measures to be taken to mitigate or minimize those effects; and
- (w) a description of any safety and environmental standards, practices and procedures to be used in the design, construction and operation of the international power line, including the date of issue of any documents respecting those matters.
- (v) les niveaux de brouillage des ondes de radio et de télévision prévus au bord de l'emprise par beau temps et mauvais temps, à la charge maximale de la ligne internationale, et les mesures prévues pour réduire au minimum le brouillage éventuel,
- (vi) si la tension de service est supérieure à 240 kV, le niveau de bruit, la concentration d'ozone, le gradient du champ électrique et l'intensité du champ magnétique prévus au bord de l'emprise, à la charge maximale de la ligne internationale, et une description des mesures envisagées pour protéger les personnes et les animaux des chocs électriques qu'ils pourraient subir au contact de véhicules ou de structures de métal,
- (vii) pour tout sous-poste faisant partie de la ligne internationale, le bruit audible, en décibels, qui serait causé par l'exploitation des installations, l'exposition du public à ce bruit ainsi que les mesures prévues pour l'atténuer au minimum,
- (viii) les pesticides et herbicides qui seront utilisés lors de la construction et de l'entretien de l'emprise, avec indication :
- (A) des quantités,
  - (B) des méthodes d'application,
  - (C) des éventuels effets environnementaux négatifs,
  - (D) des mesures à adopter pour atténuer les effets nocifs éventuels,
- (ix) les plans de remise en état de la surface du sol après la construction ainsi que les plans d'élimination des débris et des déchets d'excavation et de construction,
- (x) une déclaration des intentions du demandeur en ce qui concerne l'inspection environnementale du projet au cours de la construction et de l'exploitation de la ligne internationale;
- u) pour chaque rapport d'étude approfondie visé à l'alinéa s), une étude des facteurs suivants, en plus de ceux énumérés à l'alinéa t) :
- (i) la raison d'être du projet,
  - (ii) les solutions de rechange réalisables, sur les plans technique et économique, pour l'exécution du projet et leurs effets environnementaux,
  - (iii) la nécessité d'un programme de suivi du projet ainsi que ses modalités,
  - (iv) la capacité des ressources renouvelables risquant d'être touchées de façon importante par le projet de répondre aux besoins du présent et à ceux des générations futures;
- v) une description des effets défavorables que l'exploitation de la ligne internationale, selon les capacités de transfert de puissance visées à l'alinéa n), risque d'avoir sur les autres provinces, y compris les effets défavorables sur l'exploitation des réseaux d'électricité dans les autres provinces, ainsi que les mesures prévues pour atténuer ou réduire au minimum de tels effets;
- w) une description des normes, pratiques et méthodes en matière de sécurité et d'environnement qui seront appliquées dans la conception, la construction et l'exploitation de la ligne internationale, ainsi que la date de diffusion des documents pertinents.



*Terms and Conditions of Permits for International Power Lines*

6. The following are matters in respect of which terms and conditions may be included in any permit for the construction and operation of an international power line:

- (a) notice of any change in the identity of the owner or operator of the facilities;
- (b) the location of the facilities;
- (c) the location of the international boundary crossover point;
- (d) the electrical and physical characteristics, including the power transfer capability, of the facilities;
- (e) practices and procedures related to the protection and restoration of the environment affected by the facilities;
- (f) requirements respecting monitoring of the construction, operation and environmental effects of the facilities;
- (g) requirements respecting approval by the Board of any change that may be made to the facilities;
- (h) requirements relating to the mitigation of any adverse effects that the operation of the facilities may have on the reliability of any power systems to which the facilities are interconnected; and
- (i) requirements relating to the obligation of persons who provide other persons with the necessary facilities for the export of power from Canada to verify whether persons who wish to export electricity have the required permits or licences for that export.

*Elections*

7. An election filed with the Board under section 58.23 of the Act by an applicant for a permit or by the holder of a permit or certificate shall be in the form set out in the schedule.

## PART III

## INFORMATION TO BE FURNISHED BY APPLICANTS FOR PERMITS FOR THE EXPORTATION OF ELECTRICITY

*Border Accommodation Transfers*

8. An application for a permit for the exportation of electricity for the purposes of a border accommodation transfer shall contain the following information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application:

- (a) the names of the applicant and any authorized representative of the applicant and their mailing address, address for personal service, telephone number and any other telecommunications numbers of the applicant or the authorized representative of the applicant;
- (b) a proof of publication of the notice;
- (c) the period for which the permit is sought and, for each year in that period, an estimate of the following quantities, namely,
  - (i) the maximum quantity of firm power export,
  - (ii) the maximum quantity of interruptible power export,
  - (iii) the maximum monthly and annual quantities of firm energy exports, and
  - (iv) the maximum monthly and annual quantities of interruptible energy exports;
- (d) a copy of any electricity transfer agreement that covers the proposed exportation of electricity;

*Conditions des permis régissant les lignes internationales*

6. Le permis de construction et d'exploitation d'une ligne internationale peut être assorti de conditions concernant :

- a) l'avis de changement de propriétaire ou d'exploitant des installations;
- b) l'emplacement des installations;
- c) l'emplacement du point de traversée à la frontière internationale;
- d) les caractéristiques électriques et physiques des installations, y compris la capacité de transfert de puissance;
- e) les pratiques et méthodes relatives à la protection et à la remise en état de l'environnement perturbé par les installations;
- f) les exigences relatives à la surveillance de la construction et de l'exploitation des installations ainsi que le contrôle de leurs effets environnementaux;
- g) les exigences relatives à l'autorisation, par l'Office, de toute modification éventuelle des installations;
- h) les exigences relatives à l'atténuation des effets défavorables que l'exploitation des installations peut avoir sur la fiabilité des réseaux d'électricité auxquels elles sont interconnectées;
- i) les exigences relatives à l'obligation, pour les personnes qui fournissent à d'autres les installations requises pour l'exportation de puissance d'origine canadienne, de vérifier si les personnes qui veulent exporter de l'électricité détiennent ou non les permis ou licences d'exportation nécessaires.

*Notification*

7. La notification que le demandeur ou le titulaire de permis ou de certificat dépose auprès de l'Office, en vertu de l'article 58.23 de la Loi, doit être en la forme prévue à l'annexe.

## PARTIE III

## RENSEIGNEMENTS À FOURNIR PAR LE DEMANDEUR D'UN PERMIS D'EXPORTATION D'ÉLECTRICITÉ

*Transferts en vue d'un service frontalier*

8. La demande d'un permis d'exportation d'électricité relatif au transfert en vue d'un service frontalier doit contenir les renseignements suivants, à moins que l'Office n'informe le demandeur que ceux-ci sont déjà en sa possession ou qu'ils ne sont pas pertinents à la demande :

- a) les noms du demandeur et de son mandataire ainsi que leur adresse postale, leur adresse pour signification à personne, leur numéro de téléphone et tout autre numéro de télécommunications;
- b) une preuve de la publication de l'avis;
- c) la période visée par la demande de permis et, pour chaque année de cette période, une estimation des quantités suivantes :
  - (i) la quantité maximale de puissance garantie qui serait exportée,
  - (ii) la quantité maximale de puissance interruptible qui serait exportée,
  - (iii) les quantités maximales d'énergie garantie qui seraient exportées mensuellement et annuellement,
  - (iv) les quantités maximales d'énergie interruptible qui seraient exportées mensuellement et annuellement;



(e) a description of the international power line over which the applicant proposes to export electricity, setting forth

- (i) the number of the certificate or permit issued by the Board,
- (ii) the name of the holder of the certificate or permit,
- (iii) the names of the owner and the operator of the power line outside Canada, and
- (iv) the voltage level of the international power line;

(f) a description of the approvals that are required to be obtained, including a statement respecting the current status of the approvals,

- (i) from the provinces, and
- (ii) from the appropriate authorities for the importation of electricity into the United States; and

(g) the name, address and nature of the business of each person or agency outside Canada to be supplied with electricity, together with a statement of the power to be supplied to each.

#### *Other than Border Accommodation Transfers*

9. An application for a permit for the exportation of electricity, other than for a border accommodation transfer, shall contain the following information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application:

(a) the names of the applicant and any authorized representative of the applicant and their mailing address, address for personal service, telephone number and any other telecommunications numbers of the applicant or the authorized representative of the applicant;

(b) a description of the applicant's power system, a copy of the applicant's latest annual report and, if applicable, the applicant's most recent publicly available generation or development plan;

(c) a proof of publication of the notice;

(d) the name of each person or agency outside Canada to be supplied with electricity and the nature of the business carried on by the person or agency or, if that information is unknown at the time of the application, a brief description of the markets to be served;

(e) in the case of a sale transfer, the period for which the permit is sought and, for each year in that period, an estimate of the following quantities, namely,

- (i) the maximum quantity of firm power export and import,
- (ii) the maximum quantity of combined firm power and interruptible power export and import,
- (iii) the maximum monthly and annual quantities of firm energy exports and imports, and
- (iv) the maximum monthly and annual quantities of interruptible energy exports and imports;

(f) in the case of an exchange transfer, storage transfer, adjustment transfer or carrier transfer, a statement of the annual quantities of energy for exportation and for importation for each class of transfer for the period for which the permit is sought;

(g) a copy of any electricity transfer agreement that covers the proposed exportation of electricity;

d) une copie de tout contrat de transfert d'électricité relatif à l'exportation d'électricité proposée;

e) une description de la ligne internationale que le demandeur entend utiliser pour exporter l'électricité, indiquant :

- (i) le numéro du certificat ou du permis délivré par l'Office,
- (ii) le nom du titulaire du certificat ou du permis,
- (iii) le nom du propriétaire et de l'exploitant de la ligne située à l'étranger,
- (iv) la tension de la ligne internationale;

f) une description des autorisations à obtenir des autorités suivantes et une indication de l'avancement des démarches entreprises à cette fin :

- (i) les provinces,
- (ii) les autorités compétentes quant à l'importation d'électricité aux États-Unis;

g) le nom, l'adresse et la nature de l'entreprise de chaque personne ou organisme à l'étranger à qui de l'électricité sera livrée ainsi qu'une indication de la puissance qui lui sera livrée.

#### *Transferts non en vue d'un service frontalier*

9. La demande d'un permis d'exportation d'électricité, autre qu'un permis relatif au transfert en vue d'un service frontalier, doit contenir les renseignements suivants, à moins que l'Office n'informe le demandeur que ceux-ci sont déjà en sa possession ou qu'ils ne sont pas pertinents à la demande :

a) les noms du demandeur et de son mandataire ainsi que leur adresse postale, leur adresse pour signification à personne, leur numéro de téléphone et tout autre numéro de télécommunications;

b) la description du réseau d'électricité du demandeur, ainsi qu'une copie de son dernier rapport annuel et de son dernier plan public de production ou de développement;

c) une preuve de la publication de l'avis;

d) le nom de chaque personne ou organisme à l'étranger à qui de l'électricité sera livrée ainsi que la nature de l'entreprise exploitée par cette personne ou cet organisme ou, si ces renseignements ne sont pas connus au moment de la demande, une brève description des marchés qui seront desservis;

e) dans le cas d'un transfert relatif à la vente, la période visée par la demande de permis et, pour chaque année de cette période, une estimation des quantités suivantes :

- (i) la quantité maximale de puissance garantie qui serait exportée et importée,
- (ii) la quantité maximale combinée de puissance garantie et de puissance interruptible qui serait exportée et importée,
- (iii) les quantités maximales d'énergie garantie qui seraient exportées et importées mensuellement et annuellement,
- (iv) les quantités maximales d'énergie interruptible qui seraient exportées et importées mensuellement et annuellement;

f) dans le cas d'un transfert d'équivalents, d'un transfert en vue du stockage, d'un transfert en vue d'un redressement ou d'un transfert relatif au transport, un état des quantités annuelles d'énergie destinées à l'exportation et à l'importation, pour chaque catégorie de transfert, pendant la période visée par la demande de permis;

g) une copie de tout contrat de transfert d'électricité relatif à l'exportation d'électricité proposée;



- (h) where no agreement exists, a statement of
- (i) the estimated maximum duration of specific exports and the basis for that estimation, and
  - (ii) the period of time for which the permit is sought and the basis for the selection of that period of time;
- (i) a list of the international power lines over which the applicant proposes to export or import electricity, setting forth in respect of each line
- (i) the number of the certificate or permit issued by the Board,
  - (ii) the name of the holder of the certificate or permit,
  - (iii) the name of the owner of the power line outside Canada,
  - (iv) the voltage level and operating designation of each circuit, and
  - (v) the maximum power transfer capability of each circuit and the basis for that limit;
- (j) the total simultaneous power transfer capability under normal operating conditions for all of the international power lines listed in accordance with paragraph (j) and the basis for that limit;
- (k) a description of the approvals required for the importation of electricity into the United States, and a statement respecting the current status of the approvals;
- (l) a description of the provincial approvals that are required to be obtained by the applicant, and a statement respecting the current status of the approvals;
- (m) a description of the review process applicable to each provincial approval that must be obtained, including
- (i) a description of any public consultation provided for under the review process, and
  - (ii) a schedule for the review process;
- (n) whether new or modified facilities will be required to effect the proposed exportation of electricity and, if applicable, a detailed description of those facilities;
- (o) the adverse environmental effects resulting from the proposed exportation of electricity, and the measures to be taken to mitigate any of those environmental effects;
- (p) a description of any adverse effects that the proposed exportation of electricity could have on the operation of any power system in neighbouring provinces;
- (q) where the application specifies the terms and conditions of the proposed exportation of electricity, a description detailing the manner in which the applicant
- (i) has informed those persons who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
  - (ii) has given those persons who have demonstrated an intention to buy electricity for consumption in Canada after having been so informed, an opportunity to purchase electricity on terms and conditions, including price, as favourable as the terms and conditions specified in the application; and
- (r) where the application does not specify the terms and conditions of the proposed exportation of electricity a description, including supporting documentation, detailing the manner in which the applicant
- (i) will inform those persons who declare an interest in buying electricity for consumption in Canada of the quantities and classes available for sale, and
- h) s'il n'y a aucun contrat, un état indiquant :
- (i) l'estimation de la durée maximale des exportations particulières et les données à l'appui,
  - (ii) la période pour laquelle le permis est demandé et les raisons qui la justifient;
- i) la liste des lignes internationales que le demandeur entend utiliser pour exporter ou importer de l'électricité, indiquant pour chaque ligne :
- (i) le numéro du certificat ou du permis délivré par l'Office,
  - (ii) le nom du titulaire du certificat ou du permis,
  - (iii) le nom du propriétaire de la ligne située à l'étranger,
  - (iv) la tension et la désignation d'exploitation de chaque circuit,
  - (v) la capacité de transfert de puissance maximale de chaque circuit, assortie des données qui la justifient;
- j) le total de la capacité de transfert de puissance simultanée, dans des conditions d'exploitation normales, pour toutes les lignes internationales visées à l'alinéa j), assortie des données à l'appui;
- k) une description des autorisations requises pour importer de l'électricité aux États-Unis et une indication de l'avancement des démarches entreprises pour les obtenir;
- l) une description des autorisations provinciales que le demandeur doit obtenir et une indication de l'avancement des démarches entreprises à cette fin;
- m) une description du processus d'examen applicable à chaque autorisation provinciale à obtenir, indiquant notamment :
- (i) le détail du processus de consultation publique dont le processus d'examen est assorti, le cas échéant,
  - (ii) l'échéancier du processus d'examen;
- n) une mention indiquant si des installations nouvelles ou modifiées sont nécessaires pour l'exportation d'électricité proposée et, dans l'affirmative, une description détaillée de ces installations;
- o) les effets environnementaux négatifs de l'exportation d'électricité proposée et les mesures qui seront prises pour les atténuer en tout ou en partie;
- p) une description des effets défavorables que l'exportation d'électricité proposée pourrait avoir sur l'exploitation des réseaux d'électricité des provinces voisines;
- q) si la demande décrit les conditions de l'exportation d'électricité proposée, une description détaillée de la manière dont le demandeur :
- (i) a informé ceux qui se sont montrés intéressés par l'achat d'électricité pour consommation au Canada des quantités et des catégories de services offertes,
  - (ii) a donné à ceux qui, suivant la communication de ces renseignements, ont manifesté l'intention d'acheter de l'électricité pour consommation au Canada la possibilité d'acheter de l'électricité à des conditions aussi favorables que celles indiquées dans la demande, y compris les conditions relatives au prix;
- r) si la demande ne décrit pas les conditions de l'exportation d'électricité proposée, une description, avec documents à l'appui, de la manière dont le demandeur :
- (i) informera ceux qui se montrent intéressés par l'achat d'électricité pour consommation au Canada des quantités et des catégories de services offertes,
  - (ii) donnera à ceux qui, suivant la communication de ces renseignements, manifestent l'intention d'acheter de

(ii) will give those persons who demonstrate an intention to buy electricity for consumption in Canada after having been so informed, an opportunity to purchase electricity on terms and conditions, including price, as favourable as the terms and conditions of the export.

*Terms and Conditions of Permits for the Exportation of Electricity*

10. The following are matters in respect of which terms and conditions may be included in any permit for the exportation of electricity:

- (a) the duration of the permit;
- (b) the maximum quantities of power and energy authorized;
- (c) the classes of electricity transfers authorized;
- (d) requirements relating to the maximum duration of export contracts;
- (e) requirements relating to the filing with the Board and prior approval by the Board of electricity transfer agreements, or any amendments to those agreements, that are entered into pursuant to the permit;
- (f) the qualification of each class of electricity transfer as firm power or interruptible power;
- (g) conditions under which the permit holder must curtail or interrupt the exportation;
- (h) the international power lines over which electricity transfers are authorized;
- (i) requirements relating to the measurement of power and energy for the purposes of the permit;
- (j) any changes in circumstances about which the permit holder is required to inform the Board;
- (k) requirements relating to the protection and restoration of the environment;
- (l) requirements relating to the mitigation of adverse effects of the export on the reliability of the power systems; and
- (m) requirements relating to the opportunities for Canadians to purchase the electricity proposed to be exported from Canada.

l'électricité pour consommation au Canada la possibilité d'acheter de l'électricité à des conditions aussi favorables que celles régissant l'exportation, y compris les conditions relatives au prix.

*Conditions des permis d'exportation d'électricité*

10. Le permis d'exportation d'électricité peut être assorti de conditions concernant :

- a) la durée du permis;
- b) les quantités maximales de puissance et d'énergie autorisées;
- c) les catégories de transfert d'électricité autorisées;
- d) les exigences relatives à la durée maximale des contrats d'exportation;
- e) les exigences relatives au dépôt auprès de l'Office et à son autorisation préalable des contrats de transfert d'électricité passés en vertu du permis, ainsi que des modifications apportées à ceux-ci;
- f) le caractère de puissance garantie ou de puissance interruptible de chaque catégorie de transfert d'électricité;
- g) les conditions dans lesquelles le titulaire du permis peut interrompre ou restreindre les exportations;
- h) les lignes internationales à utiliser pour les transferts d'électricité autorisés;
- i) les exigences relatives à la mesure de la puissance et de l'énergie aux fins du permis;
- j) les circonstances nouvelles qu'un titulaire de permis doit signaler à l'Office;
- k) les exigences relatives à la protection et à la remise en état de l'environnement;
- l) les exigences relatives à l'atténuation des effets défavorables de l'exportation sur la fiabilité des réseaux d'électricité;
- m) les exigences relatives aux possibilités à offrir aux Canadiens pour l'achat de l'électricité que le titulaire envisage d'exporter.

**SCHEDULE**  
(Section 7)

Form 1

To: The Secretary  
National Energy Board  
311 - 6th Avenue S.W.  
Calgary, Alberta  
T2P 3H2

\_\_\_\_\_  
(Date)

This constitutes the election of \_\_\_\_\_ under  
(Print name)

section 58.23 of the *National Energy Board Act*.

**ANNEXE**  
(article 7)

Forme 1

À : Le secrétaire  
Office national de l'énergie  
311, 6<sup>e</sup> Avenue S.O.  
Calgary (Alberta)  
T2P 3H2

\_\_\_\_\_  
(Date)

La présente constitue la notification de \_\_\_\_\_  
(nom en lettres moulées)

en vertu de l'article 58.23 de la *Loi sur l'Office national de l'énergie*.



The international power line in respect of which the provisions of the *National Energy Board Act* referred to in section 58.27 of that Act and not the laws of the province shall apply, may be described as follows: (give a brief description of the international power line).

La ligne internationale de transport d'électricité à laquelle s'appliquent les dispositions de la *Loi sur l'Office national de l'énergie* mentionnées à l'article 58.27 de cette loi, et non la loi provinciale, est la suivante : (décrire brièvement).

From :

Name

Address

City, Prov., Postal Code

Signature

Nom

Adresse

Ville, province et code postal

Signature



National Energy Board



Office national de l'énergie

CAI  
MT76  
-N53

File: 7500-3

16 May 1997

To: **All Interested Persons**

Subject: **Further Instructions to Assist Applicants  
in Complying with Part VI Supply Filing Requirements**

The National Energy Board released a letter, dated 29 August 1996, providing instructions to assist applicants in complying with Part VI supply filing requirements.

The purpose of this letter is to further clarify the instructions in the 29 August 1996 letter. This letter supersedes the 29 August 1996 letter. Applicants are encouraged to submit the required information in the format suggested in the attachment to this letter.

Attached herein are the complete instructions for applicants.

If there are any further questions, please contact Paul Bourgeois, Regulatory Supply Specialist - Applications Business Unit, at (403) 299-3149.

Yours truly,

M. L. Mantha  
A/Secretary

attach.



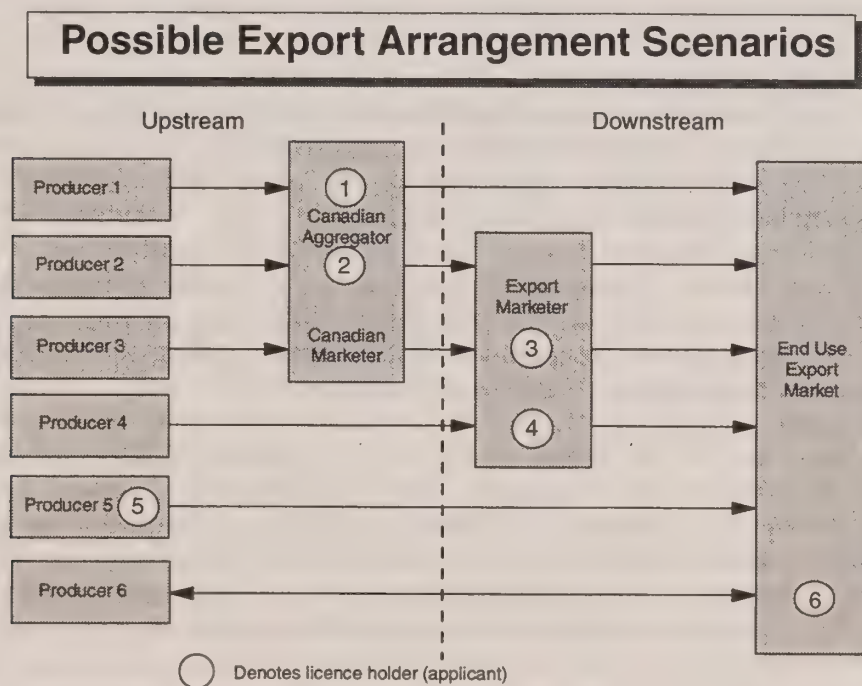


## Filing of Supply Information in Compliance with the Board's *Part VI (Oil and Gas) Regulations*

The purpose of this document is to assist applicants in the preparation of the supply information that the Board requires in an application for a licence to export natural gas. This document describes more fully the supply information required under the Board's *Part VI (Oil and Gas) Regulations* and defines the minimum information required to support the Board's current Market-Based Procedure ("MBP"). It further clarifies the instructions issued by the Board on 29 August, 1996 and hereby supersedes those instructions. Illustrative examples are provided, where appropriate, as a guide for filings under these regulations.

In order to carry out its adjudicative responsibilities pertaining to applications for the export of natural gas, the Board requires an understanding of the nature of the commercial arrangements involved in an export proposal. Under the "Other Public Interest Considerations" element of the "Public Hearing Component" of the Board's MBP, the Board determines the appropriate length of term of the proposed licence by examining, among other things, the adequacy of gas supply available to the export licence applicant to support the applied-for volumes over the requested licence term. The Board is particularly interested in the supply provisions which are engrained in the commercial arrangements behind the export proposal, i.e. the provisions of the contracts between seller and buyer pertaining to gas supply. For this reason, the Board's new regulations have been oriented towards such contractual arrangements.

To assist users of this document, the following diagram, representing most of the possible export arrangement scenarios, will be used as a guide to identify which filings apply in specific cases.



A marketer is an entity engaged in bringing together sellers and buyers of natural gas, assisting in negotiations, and arranging transportation and delivery terms. Marketers usually buy for their own account and resell the natural gas. A major function of marketers is the aggregation of natural gas supplies and/or markets. Aggregators are companies that consolidate a number of individual producers

into a group and sell the natural gas on behalf of that group of producers. The type and level of detail of supply information required of aggregators and marketers will depend upon the specific supply underpinning the proposed export.

On 15 May, 1996, the *National Energy Board Act Part VI (Oil and Gas) Regulations* came into force. Section 12 of these regulations sets out the information required by the Board to assist with its MBP determination. The provisions pertaining to gas supply information are ss. 12. (b) and (d).

Specifically, s. 12.(b) requires an applicant for the export of natural gas to file:

*information respecting the applicant's gas supply supporting the proposed exportation, whether contractually dedicated or undedicated, including*

- (i) a summary of the quantities of gas under contract to or owned by the applicant, including daily and annual volumes, reserves and the termination date of every such contract, and*
- (ii) a copy of each pro forma contract for each type of gas purchase contract.*

Under s. 12.(b)(i), the Board requires a list, by gas purchase contract,<sup>1</sup> identifying (a) the daily and annual contract volumes specified in each contract, (b) the total gas supply specified in each contract and (c) the termination date specified in each contract (See Attachment 1). This summary is required for all export arrangement scenarios, as shown in the diagram, although scenarios 5 and 6 may only require a single line entry in the table.

Under s. 12.(b)(ii), the Board requires a *pro forma* copy of each contract type referenced in s. 12.(b)(i), along with a copy of the signed execution pages of each contract. Filing of *pro forma* gas purchase contracts is most applicable to scenario 1 and 2 export arrangements.

Supply information is also required by s. 12.(d) which states:

*where the gas proposed to be exported is from a gas supply other than a contractually dedicated pool, field or area, a gas supply and demand balance for the reserves supporting the application, on both an aggregate and an annual basis for the duration of the proposed exportation, identifying all firm commitments supported by those reserves.*

The "aggregate" supply and demand balance should consist of a table comparing total contracted supply to total firm sales commitments over the remaining term of the contract(s). Each source of supply should be addressed and identified by name along with the respective volume obligation to the applicant. In the case of a supply aggregator (scenarios 1 and 2), one entry would be required for all of the aggregator's lands with dedicated reserves and one entry would be required for each corporate warranty supply source. For scenario 3 and 4 export arrangements, one entry would be required for each producer underpinning the export proposal, while scenario 5 and 6 export would likely require only one entry. The demand side of the balance should include the applicant's total long-term firm sales commitments, as well as an estimate of total anticipated short-term firm sales under existing arrangements (See Attachment 2).

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<sup>1</sup> By "gas purchase contract" the Board means the contract between the producer and the first buyer.



The "aggregate" supply component of this balance should also include information on the reserves supporting each source of supply underpinning the application. This information should be provided as indicated in the table (See Attachment 2) listing by supply source, each supplier's remaining established reserves, the type of reserves estimate, the supplier's total obligations underpinned by those reserves and the supplier's volume obligation to the applicant. Types of reserves estimates that would be acceptable to the Board include Alberta Energy and Utilities Board determinations, third party estimates and producer listings currently on file with the NEB. When the source of the reserves estimate is the supplier, rather than a regulator or consultant, and the supplier's reserves are not currently on file with the NEB, the applicant is required to provide a summary of the supplier's reserves by field and pool identifying the supplier's working interest in each pool (See Attachment 2).

The Board is not prepared to accept, as supporting evidence, reserves in a collection of pools containing uncommitted reserves equal to or greater than the proposed export, without those reserves necessarily forming part of the proposed export arrangement. The Board considers that such supply pools do not properly represent the actual supply underpinning export proposals. Therefore, the information submitted should address all contracted supply available to an applicant which could contribute to gas flows under the proposed export.

The "annual" supply and demand balance should consist of a table comparing the applicant's projection of annual productive capacity from the gas supply supporting the proposed export with the total annual firm commitments underpinned by that supply over the term of the proposed exportation (See Attachment 3). A figure comparing the projections would also be a desirable complement to the table (See Attachment 3).

The Board expects an applicant to provide a summary of the key assumptions made in preparing its projection of productive capacity in addition to an explanation of the forecasting methodology used. In other words, (a) was the productive capacity derived simply based on an assumed rate of take or remaining reserves to production ratio (RR/P), (b) was it based on individual well flow characteristics using a simplified reservoir forecasting model, (c) was it based on a detailed reservoir simulation, or (d) was it based on other assumptions?

The Board will be flexible in making its assessment of the adequacy of an applicant's gas supply, but the Board normally expects applicants to demonstrate that contracted supply is equal to or exceeds the applied-for volume, and that productive capacity is adequate to meet the proposed annual export volumes over the majority of the applied-for term.

The information described above is the minimum required by the regulations. In specific cases, the Board may require additional information for further clarification. It is important that applicants provide sufficient information to enable the Board to both identify the source of supply supporting the export proposal and to understand how the proposed export requirement fits into the overall market commitments from that supply.

**List of Attachments**

Attachment 1	.....	Gas Purchase Contract Summary
Attachment 2	.....	Aggregate Supply and Demand Balance
Attachment 2	.....	Summary of Supplier's Own Reserves Estimates
Attachment 3	.....	Annual Supply and Demand Balance (Table)
Attachment 3	.....	Annual Supply and Demand Balance (Figure)

## 12.(b)(i) Contract Summary:

Gas Purchase Contract Summary
-------------------------------

Gas Purchase Contract <sup>1</sup>	Daily Volume (10 <sup>3</sup> m <sup>3</sup> /d)	Annual Volume (10 <sup>6</sup> m <sup>3</sup> )	Contracted Supply <sup>2</sup> (10 <sup>6</sup> m <sup>3</sup> )	Contract Termination Date	Contract Type <sup>3</sup>
1	15	5	27	March 31, 1998	RB
2	50	18	72	Oct. 31, 1999	CW
3	43	16	157	Oct. 31, 2000	RB
4	10	4	40	Oct. 31, 2005	CW
.	.	.	.	.	.
.	.	.	.	.	.
<b>Total</b>	<b>760</b>	<b>250</b>	<b>2000</b>		

Notes: 1 Please identify supplier/producer by name.

2 Provide reserves value if reserves-based contract, total volume obligation if corporate warranty contract.

3 RB = reserves-based; CW = corporate warranty

## 12.(d) Aggregate Supply and Demand Balance:

**Applicant's  
Aggregate Supply Demand Balance  
(as of date)**

Source of Supply <sup>1</sup>	Remaining Established Reserves (10 <sup>6</sup> m <sup>3</sup> )	Type of Estimate <sup>2</sup>	Suppliers' Total Obligations <sup>3</sup> (10 <sup>6</sup> m <sup>3</sup> )	Suppliers' Obligation to Applicant (10 <sup>6</sup> m <sup>3</sup> )
Source 1	4000	Regulator	3500	2000
Source 2	145	Consultant	140	140
Source 3	255	Own	250	200
.	.	.	.	.
<b>Total</b>	<b>4400</b>		<b>3890</b>	<b>2340</b>
Applicant's Firm Sales Commitments <sup>4</sup>	Daily Volume (10 <sup>3</sup> m <sup>3</sup> /d)		Total Commitments (10 <sup>6</sup> m <sup>3</sup> )	
Total Long-term:	598		1634	
Estimated Short-term:	100		55	
<b>Total Commitments:</b>	<b>698</b>		<b>1689</b>	

- Notes: 1 Please specify name of supplier/producer. A supply aggregator would require one entry for all its lands with dedicated reserves and one entry representing each corporate warranty supply source.  
 2 Please identify regulator (e.g. EUB), consultant or provide listing of reserves as in example below if own estimate.  
 3 Long-term commitments plus estimate of short-term sales under existing arrangements.  
 4 Applicant's commitments against contracted supply.

**Summary of Supplier's Own Reserves Estimates  
(as of date)**

Location	Field	Pool Name	WI %	Remaining Established Reserves (10 <sup>6</sup> m <sup>3</sup> )
046-03w5	Crystal	Belly River	50	20
031-17w4	Michichi	Lower Mannville	33	40
.	.	.	.	.
.	.	.	.	.
<b>Total</b>				<b>255</b>

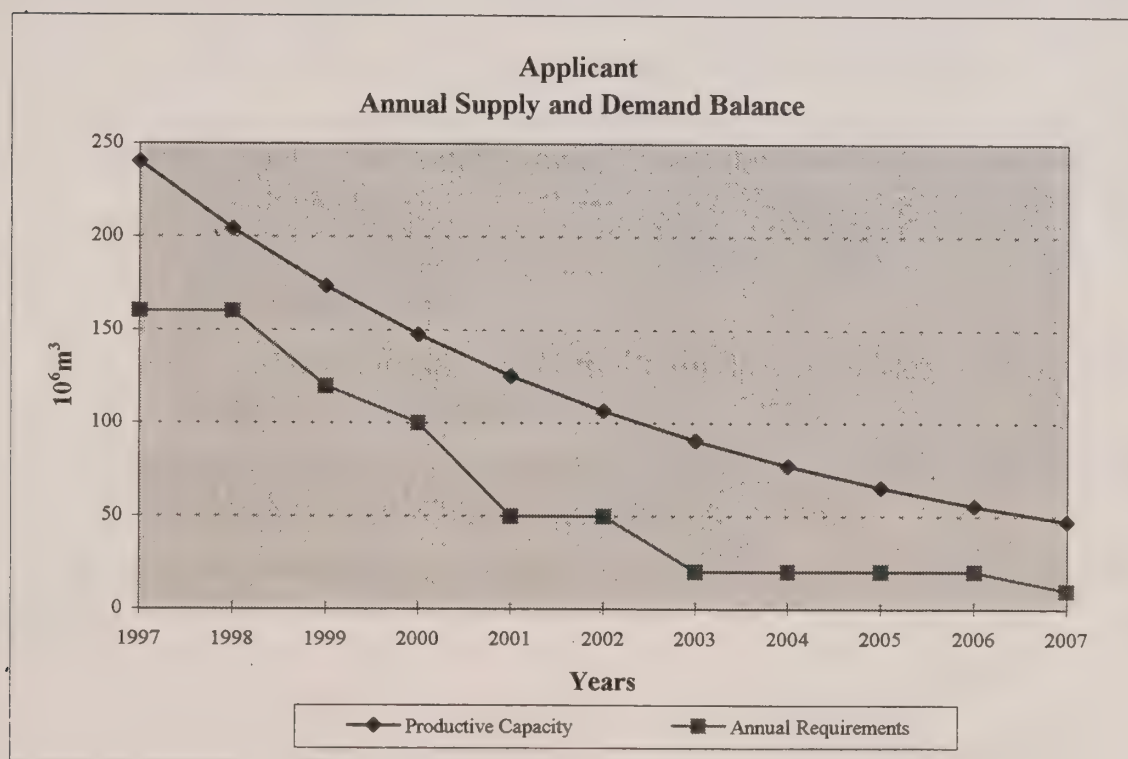


## 12.(d) Annual Supply and Demand Balance

TABLE

Year	Productive Capacity ( $10^6\text{m}^3$ )	Annual Requirements ( $10^6\text{m}^3$ )
1997	240	160
1998	204	160
1999	173	120
2000	147	100
2001	125	50
2002	106	50
2003	91	20
2004	77	20
2005	65	20
2006	56	20
2007	47	10

FIGURE





National Energy Board



Office national de l'énergie

CAI  
MT76  
- N53

File: 4600-A000-4  
18 July 1997

To: All parties on the Board's mailing list

Re: Update to the Board's Letter Dated 4 March 1997 Re: Canadian Association of Petroleum Producers ("CAPP")- Request for Workshop on Issues Affecting Gas Pipelines

On 4 March 1997, the Board issued a letter indicating that it believed CAPP's request for a workshop to consider issues affecting the ability of pipeline companies to best serve the gas industry was a valuable initiative. Furthermore, the Board invited parties to provide an indication of their interest in participating in a working group whose purpose would be to scope out a workshop and its format. Parties who wished to be included in the working group are listed in Attachment 1.

Since then, Mr. Gaétan Caron, who has been identified by the Board as its contact person, has been working with the working group participants and they have decided to proceed in the following manner:

- The working group meeting will be held on Tuesday, 16 September 1997;
- In order to maximize the exchange of opinions, the working group meeting will be facilitated by representatives selected from CAPP, the Canadian Energy Pipeline Association ("CEPA") and the Canadian Gas Association ("CGA"). The only role of these persons will be to facilitate the working group meeting; they will not participate in the discussion of issues, nor will they seek to present positions on behalf of their respective associations; and
- Given the generic nature of potential issues, participation in the working group from oil pipelines and their interested parties is welcomed.

The Board is very pleased with the non-adversarial, cooperative and constructive approach taken by the three associations, encouraged by their respective members.

The Board will communicate the results of the 16 September 1997 meeting shortly after its occurrence.

Yours truly,

M. L. Mantha  
Secretary

attachment







Date: 18 July 1997/le 18 juillet 1997  
File/Référence: 4600-A000-4

WORKSHOP ON ISSUES AFFECTING THE  
ECONOMIC REGULATION OF PIPELINES  
ATELIER SUR LES QUESTIONS TOUCHANT  
LA RÉGLEMENTATION ÉCONOMIQUE DES PIPELINES

WORKING GROUP CONTACTS  
AGENTS DE LIAISON: GROUPE DE TRAVAIL

Facilitators

Mr. Greg Stringham  
Manager, Regulatory Affairs  
Canadian Association of Petroleum Producers  
2100, 350 - 7 Avenue S.W.  
Calgary, AB T2P 3N9

Telephone/Téléphone: (403) 267-1106  
Facsimile/Télécopieur: (403) 266-3123

Mr. Brian Troicuk  
Manager, US Regulatory Affairs  
Canadian Association of Petroleum Producers  
2100, 350 - 7 Avenue S.W.  
Calgary, AB T2P 3N9

Telephone/Téléphone: (403) 267-1142  
Facsimile/Télécopieur: (403) 266-3123

Ms. Bonnie Stowkowy  
Manager, Environment and Transportation  
Canadian Energy Pipeline Association  
1650 - 801 6th Avenue S.W.  
Calgary, AB T2P 3W2

Telephone/Téléphone: (403) 221-8777  
Facsimile/Télécopieur: (403) 221-8760

Mr. Bruno Carella  
Vice-President, Policy and Administration  
Canadian Gas Association  
Suite 1200  
243 Consumers Road  
North York, Ontario  
M2J 5E3

Telephone/Téléphone: (416) 498-1994  
Facsimile/Télécopieur: (416) 498-7465

## **Working Group Contacts/Agents de liaison**

### **Alberta Pipeline Project**

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Alberta Pipeline Project  
Century Square I  
2nd Floor, 305 - 2nd Street S.W.  
Calgary, AB T2P 1N7

Telephone/Téléphone: (403) 213-3000  
Facsimile/Télécopieur: (403) 213-3001

### **Alliance Gas Management Inc.**

Mr. Garry B. Flood  
Vice President  
Alliance Gas Management Inc.  
Suite 300  
1400 - 1st Street S.W.  
Calgary, AB T2R 0V8

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### **Amoco Canada Petroleum Company Ltd.**

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240 - 4 Avenue S.W., Box 200 Station M  
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### **BC Gas Utility Ltd.**

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Manager, Gas Supply  
Regulation & Research  
BC Gas Utility Ltd.  
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### **Canadian Association of Petroleum Producers**

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general e-mail: communication@capp.ca

**Consumers Gas**

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**Foothills Pipe Lines Ltd.**

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**Gaz Métropolitain, inc.**

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**Interprovincial Pipe Line Inc.**

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**Union Gas Limited and Centra Gas Ontario Inc.**

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National Energy Board



Office national de l'énergie

File 7205-A000-2  
24 July 1997

To: **All Interested Persons**

Subject: **Upcoming Public Hearing of Part VI Gas Export Licence Applications**

The National Energy Board is planning to hold its next gas export hearing in November 1997 and hereby gives notice to all potential applicants that completed applications must be filed on or before 28 August 1997 in order to be included in the proceeding.

In July 1987, the Board implemented the Market-Based Procedure ("MBP") which assists the Board in discharging its responsibilities under section 118 of the *National Energy Board Act* with respect to the licensing of natural gas exports. The MBP sets out the procedure by which the Board assesses the merits of applications to obtain a licence for the long-term export of natural gas from Canada.

Applications filed with the Board must meet the filing requirements contained in the Board's *Part VI (Oil and Gas) Regulations* and must address the criteria contained in the Board's *Reasons for Decision - Proposed Changes to the Application of the Market-Based Procedure - GHW-1-91 - May 1992*.

Applicants are reminded that the MBP contains an Export Impact Assessment ("EIA"), the purpose of which is to allow the Board to determine whether a proposed export is likely to cause Canadians difficulty in meeting their energy requirements at fair market prices. Applicants have the option of filing their own analysis or adopting the Board's EIA. The Board's most recent EIA is contained in Chapter 6 of its report entitled *Canadian Energy Supply and Demand 1993-2010* which was released in December 1994. The Board also reminds applicants that, if the proposed export covers a period beyond the Board's EIA (i.e. 2010), they should submit evidence to demonstrate that the export would not cause Canadians difficulty in meeting their energy requirements at fair market prices for the period beyond 2010.

The Board has adopted the "necessary connection" test described in its *Reasons for Decision* in GH-3-94 as its procedure in this hearing for considering when upstream environmental effects will be relevant to its determination of an application. Applicants are therefore requested to file information sufficient to determine if the applied-for export licence and new upstream facilities or activities are integrated to the extent that they can be seen to form part of a single course of action. If such new facilities or activities will be constructed or undertaken, applicants are requested to file an assessment of the potential environmental effects of those new facilities or activities on matters subject to federal jurisdiction and any directly related social effects. If applicable, this requirement may be met by filing:

... /2



- (i) a description of the environmental aspects of the regulatory regime applicable to the facility or activity in question;
- (ii) all government authorizations received;
- (iii) environmental assessments submitted in seeking these government authorizations; and
- (iv) a description of any environmental mitigative measures to which the applicant is committed.

Following the 28 August 1997 filing deadline, the Board will issue further instructions.

Yours truly,

A handwritten signature in black ink, appearing to read 'M. L. Mantha', with a stylized, cursive script.

M. L. Mantha  
Secretary

National Energy Board



Office national de l'énergie

CAI  
MT76  
- N53.

File: 4600-A000-4  
30 September 1997

To: All parties on the Board's mailing list

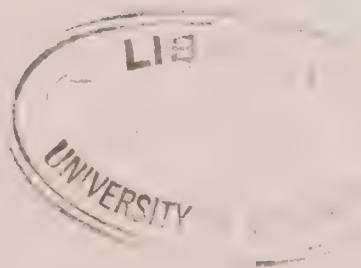
Re: Follow-up to the Board's Letter Dated 18 July 1997 Re: Canadian Association of Petroleum Producers (CAPP)- Request for Workshop on Issues Affecting Gas Pipelines

The Board is pleased to attach a summary of the notes from the "Working Group Meeting on Issues Affecting the Economic Regulation of Pipelines" held on September 16, 1997. A list of workshop participants is also attached.

As you may recall, the Board received a letter from CAPP in November 1996, requesting that the Board hold a workshop to consider issues affecting the ability of pipeline companies to best serve the gas industry. The Board subsequently solicited and received useful comments about a possible workshop, and suggested in its letter dated March 4, 1997 that such an initiative would be valuable. In that same letter, the Board also invited parties to provide an indication of their interest in participating in a working group, whose purpose would be to scope out a workshop and its format. The working group volunteers are listed in Attachment 1.

In order to gain broader industry ownership of the process, the Board successfully solicited representatives of CAPP, the Canadian Energy Pipeline Association (CEPA), and the Canadian Gas Association (CGA) to serve as co-facilitators for the working group meeting which was originally proposed for June 12, 1997. Once assembled, the co-facilitation team further defined the objective of the working group meeting as identifying general issues facing the regulator and industry and, where necessary, determining the process for dealing with these issues. The team also decided that, given the generic nature of potential issues, participation from oil pipelines and their interested parties would be welcomed. Finally, the co-facilitation team decided that a more reasonable date for the working meeting would be September 16, 1997.

The working group met in Calgary on September 16, 1997 at Canada Olympic Park. As the attached summary indicates, the working group decided that a workshop would not be required at this time. Instead, CAPP and CEPA are to work together on specific issues largely meant to streamline the regulatory process. They intend to involve interested stakeholders on an as needed basis, with a view of coming to the Board for approval once consensus is reached.



.../2

In closing, the Board would like to emphasize that it will continue to have an open mind in the way it performs its regulatory obligations. As does industry, the Board is always looking for ways to improve and streamline the regulatory process. The Board welcomes new and innovative approaches to regulation and looks forward to considering any future initiatives brought forward by industry.

Yours truly,

A handwritten signature in dark ink, appearing to read 'M. L. Mantha', with a stylized, flowing script.

M. L. Mantha  
Secretary

Attachment



**Summary of Working Group Meeting on  
Issues Affecting the Economic Regulation of Pipelines  
September 16, 1997, Canada Olympic Park**

**Outcomes**

The working group<sup>1</sup> identified a number of issues affecting the economic regulation of pipelines that require further attention, but the group determined that a broad workshop was not appropriate to address them. Instead, the Canadian Association of Petroleum Producers (CAPP) and the Canadian Energy Pipeline Association (CEPA) agreed to work together on issue identification and resolution, involving other stakeholders where appropriate.

The top issues identified by the working group were:

- streamlining the regulatory process and information requirements relating to timing, facilities and tolls, information and export licenses;
- new and existing pipeline capacity including terms of service/tolls, flexibility and risk sharing, and;
- competition-regulatory balance.

No specific individual responsibilities and timelines were developed. CAPP and CEPA intend to involve interested stakeholders, including the National Energy Board (NEB) on an as-needed basis.

**Background**

In November 1996, CAPP wrote to the NEB with the suggestion that a workshop be convened to discuss general regulatory issues relating to natural gas pipeline capacity. Subsequently, the original issues were broadened by the NEB and other industry stakeholders, and it was decided that a working group of volunteers would be convened to identify general issues facing the regulator and industry and, where necessary, to determine the process for dealing with these issues. This would include identifying next steps and assigning responsibilities for action items. CEPA, CAPP and the Canadian Gas Association (CGA) agreed to co-facilitate the working group meeting which took place on September 16, 1997.

**Overview of the Planning Meeting on September 16, 1997**

**1. Introduction**

The day was opened with remarks by Roland Priddle, Chairman of the NEB and Gaétan Caron, Executive Director and Temporary Board Member of the NEB. Mr. Priddle stated that a lot of changes in the economic regulation of pipelines have occurred over the past 12 years and more changes are likely to come. He asked the working group to consider the shape of regulation in the future and determine whether there are ways to improve and how regulation can adapt to competition in the natural gas market. Mr. Priddle hoped that the industry would take the initiative to "push out the envelope" and consider a new "regulatory compact".

.../2

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<sup>1</sup>See attachment one for working group participants.

Mr. Caron said that he was very encouraged to see three of the industry associations, CEPA, CAPP and the CGA, lead the planning workshop on issues affecting the economic regulation of pipelines. He also emphasized that this was an opportunity for industry to start to build a new regulatory vision. He said that the NEB has a very open mind on change.

## **2. Discussions**

Bonnie Stowkowy (CEPA), Greg Stringham (CAPP) and Bruno Carella (CGA) were the co-facilitators for the day. They led the group through a number of exercises which were designed to help participants identify regulatory issues facing the industry, and possible processes for addressing them.

### **a) Envisioning the Future**

Participants brainstormed about what regulation might look like in ten years. A number of ideas related to a streamlined regulatory process were suggested including: improved timing of decisions, market-based decisions, regulator as arbitrator rather than as proxy for market, complete economic and facility de-regulation in 10 years, the NEB's role in audit/review, complaint-driven process, the NEB doing less with less, greater flexibility in tolling. It was pointed out that the NEB Act could be changed, but this would have to occur through the political process and that the NEB could not initiate changes. At the same time, it was suggested that the NEB is perhaps not using all of the flexibility that is in the Act in its interpretations.

Some ideas focused on what the public interest aspect of regulation would look like in 10 years. "How does competition serve the public interest?" Some argued that the industry may be well-served by one or two pipelines. Competition may actually mean increased prices. Others argued that competition is in the public interest, especially in the short-term. Some parties suggested that the gas industry has a unique, and possibly a last, opportunity to move into a more competitive environment given the size the of new pipeline projects being proposed.

### **b) Prioritizing Issues Facing the Industry**

Since November, 1996, when the initial concept for discussing regulatory issues in a broad forum was proposed, a number of specific issues were identified in written correspondence with the NEB. These issues were summarized for the working group participants, who agreed that they were still relevant, and a few issues were added. The subjects included: the competition-regulation balance, rate setting methods/terms of service, risk/reward sharing, cost of regulation and timing. Through an informal voting process, participants selected those topics which they felt were of most significance at the present time. The top issues were:

### **Competition-Regulation Balance**

- definition of competition
- measure and control of market power
- competition- does or will it exist?
- is competition in the public interest?
- unbundling of services
- level playing field for new vs. existing pipelines
- checks on affiliates

### **New and Existing Capacity, Pipeline Expansions**

- terms of service/tolls
- flexibility
- risk sharing

### **Streamlining Regulatory Process and Information Requirements**

- information requirements
- timing
- facilities and tolls
- export licences

### **c) Selecting a Process**

After determining the issues that the working group felt were most important to address, there was some discussion about the appropriate type of process to deal with them. Participants were first asked to describe aspects of the current regulatory process that they found frustrating. These included: no flexibility, too much information required, double scrutiny (shareholders and the public), delays/slow, costly, unclear roles/rules and adversarial. The working group was then asked to describe what they would consider to be characteristics of a good process. These included: flexible, balanced, "let the market decide"- subject to health/safety/environmental considerations, public interest, efficient, less adversarial, quick and confidential.

Participants worked in groups to match the issues facing the industry with a suitable process for dealing with them. The collective group decided that the most pressing issues would best be addressed through direct meetings of key industry participants and that a "generic industry workshop" would not be required at this time.

### **3. Next Steps**

CEPA and CAPP have undertaken to:

- 1) determine issues that could be dealt with by the associations and between individual companies, i.e., for streamlining the regulatory process, and
- 2) then engage larger audience where necessary and keep NEB informed.

## Attachment One

### Participants in Planning Workshop

Kelly Bordian, NEB  
Phil Cochrane, Foothill Pipe Lines Ltd.  
Rob Cohen, Express Pipe Line  
Bryan Curtis, CEPA  
E.C. Eddy, BC Gas  
Garry Flood, Alliance Gas Management Inc.  
Heather Gnenz, TCPL  
Barry Jardine, Westcoast Energy Inc.  
Ian Leadley, Union Gas Ltd. and Centra Gas Ontario Inc.  
Bert Mayer, Gaz Metropolitan  
R.R. Moore, Imperial Oil Resources Ltd.  
Bob Nichols, IPL  
Liisa O'Hara, TransMountain Pipe Line  
Michèle Perret, IPL  
Robert Rowe, Consumers Gas  
Nikol J. Schultz, CAPP  
G.W. Toews, TransCanada Gas Services  
Brian Woods, Duke Energy

Introduction: Roland Priddle, Chairman, Gaétan Caron, NEB

Facilitators: Bonnie Stowkowy, CEPA; Greg Stringham, CAPP; Bruno Carella, CGA

Recording Secretary: Jutta Elbe Shaw, NEB

Regrets: Cheryl G. Worthy, Amoco Canada Petroleum Company  
Suzanne Boucher-Chen, Pan-Alberta Gas Ltd.







File 185-A000-22-3  
5 December 1997

CAI  
MT76  
- N 53

To: All Interested Parties

**Re: Processing of Part VI Applications For Gas Export Licences**

The Board is proposing to make changes to its method of processing applications for gas export licences pursuant to Part VI of the *National Energy Board Act*. In recent years the Board has considered such applications in semi-annual hearings following a call for applications. The Board is proposing that the call letter approach be discontinued and that each application be processed following the receipt by the Board of a completed application. The Board is also proposing changes with respect to public notification.

It is proposed that the Board would provide notification to the public of the filing of applications using a Part VI Notification Mailing List consisting of parties who have specifically requested to be included on that list, as opposed to requiring applicants to publish a Notice of Hearing in newspapers. In order to ensure that parties are aware of the need to register for inclusion on the list, the Board would publish annually a brief notice in newspapers outlining the Board's procedure and advising interested parties to register with the Board to be included on the mailing list. In addition, the Board would post information concerning its procedures and each application on its Internet web site. As well, the Board would continue its current practice of issuing a news release with respect to each application. News releases are currently distributed to over 1400 parties and over 700 news wire clients.

These proposed changes are intended to streamline the Board's processing of Part VI applications for gas export licences. The proposed changes would allow Applicants to file applications at a time of their choosing and when they are sufficiently complete. It is the Board's intention that the level of scrutiny and analysis and adherence to the Board's Market-Based Procedure for examining such applications would not change.

Before proceeding with these changes, the Board wishes to consider the views of interested parties. Parties wishing to comment on these proposed changes are requested to file comments with the Secretary of the Board by 16 January 1998.

Yours truly

M. L. Mantha  
Secretary

(L01.L04.L07)



Dossier 185-A000-22-3  
Le 5 décembre 1997

À : Toutes les parties intéressées

**Objet : Traitement des demandes de licence d'exportation de gaz présentées aux termes de la partie VI**

L'Office propose de modifier ses modalités de traitement des demandes de licence d'exportation de gaz présentées aux termes de la partie VI de la *Loi sur l'Office national de l'énergie*. Au cours des dernières années, il a étudié ces demandes dans le cadre d'audiences semestrielles tenues après la diffusion d'un appel de demandes de licence. Il propose de délaissier cette démarche et d'étudier chaque demande de licence dès qu'il l'a reçoit. L'Office veut également modifier le processus de préavis public.

Il est proposé que l'Office avise le public du dépôt des demandes en employant la liste de distribution des avis liés à la partie VI, où figurent les parties ayant expressément demandé d'y être inscrites, plutôt que d'exiger des demandeurs qu'ils publient un avis d'audience dans les journaux. Pour garantir que les parties sachent qu'elles doivent faire s'inscrire pour que leur figure à la liste, l'Office publierait annuellement dans les journaux un bref avis indiquant la démarche qu'il emploie et avisant les parties intéressées de s'inscrire auprès de l'Office pour faire inclure leur nom sur la liste de distribution. En outre, l'Office afficherait l'information concernant ses procédures et chaque demande sur son site internet. De plus, comme c'est déjà l'usage, il diffuserait un communiqué de presse au sujet de chaque demande. Actuellement, l'Office diffuse ses communiqués auprès de plus de 1 400 destinataires et plus de 700 agences de transmission.

Les changements proposés visent à simplifier le traitement des demandes de licence d'exportation de gaz présentées aux termes de la partie VI et permettraient aux demandeurs de déposer leur demande au moment de leur choix et dès qu'elles sont suffisamment complètes. L'Office a l'intention de continuer à appliquer sa méthode d'examen axée sur les conditions du marché et à examiner avec rigueur chaque demande.

Avant de mettre en oeuvre ces changements, l'Office désire toutefois obtenir les vues des parties intéressées, qui feront parvenir leurs observations au secrétaire de l'Office d'ici au 16 janvier 1998.

Veuillez agréer mes salutations distinguées.

Le secrétaire,

M. L. Mantha

(L01,L04,L07)



National Energy Board

Office national de l'énergie

CAI  
MT76  
- N 53

3200-T001-14  
20 January 1998

Mr. Paul R. Jeffrey  
Senior Legal Counsel  
TransCanada PipeLines Limited  
111 - Fifth Avenue S.W.  
P.O. Box 1000, Station M  
Calgary, AB T2P 4K5

Dear Mr. Jeffrey:

**Re: TransCanada PipeLines Limited ("TransCanada")  
Application dated 13 May 1997, as amended, for  
1998 Facilities - GH-2-97 Proceeding**

Attached are revised copies of Page 1 of Appendix A to Certificate of Public Convenience and Necessity GC-93, to correct a typographical error in respect of the length of the Winchester Shortcut.

Also attached are Errata to the GH-2-97 Reasons for Decision, including a copy of Figure 5-1 which was inadvertently omitted from the French version of Reasons For Decision.

Yours truly,

M. L. Mantha  
Secretary

Attach.

cc: Parties to GH-2-97





**National Energy Board  
Reasons for Decision  
GH-2-97**

**In the matter of  
TransCanada PipeLines Limited's  
Application dated 13 May 1997, as amended,  
pursuant to part III of the *National Energy Board Act*  
for 1998 Facilities**

**ERRATA**

*English Reasons for Decision*

1. On Page 4, please delete the "2" at the bottom of the "Width" column in Table 2-1.
2. In Table 5-1 on Page 36, the length of the Winchester Shortcut should be 27.9 km, not 7.9 km as indicated.

*French Reasons for Decision*

1. The attached map (French Errata only) should be inserted into the Reasons for Decision as Page 40.
2. In Table 5-1 on Page 41, the length of the Winchester Shortcut should be 27.9 km, not 7.9 km as indicated.



**APPENDIX A****Description of the Approved Facilities**

<u>Line</u>	<u>Location</u>	<u>Length(km)</u>
<b>Western Section</b>		
100-7	MLV 13 to MLV 14	23.6
100-7	MLV 20 to MLV 21	23.1
100-7	MLV 21 to MLV 22	26.4
100-7	MLV 25 to Sask./Man. Border	2.9
100-7	Sask./Man. Border to MLV 29	80.8
<b>Central Section</b>		
100-4	MLV 52 to MLV 53A	32.9
100-4	MLV 55 to MLV 56	15.2
100-4	MLV 67 to MLV 69	22.8
<b>North Bay Shortcut</b>		
1200-2	MLV 1209 to MLV 1210	18.8
1200-2	MLV 1210 to MLV 1211	22.5
<b>Winchester Shortcut</b>		
1200-2	MLV 1219 + 16.1 km to MLV 1401	27.9
<b>Dawn Extension</b>		
500-3	MLV 501 to MLV 501 + 11.5 km	11.5





National Energy Board



Office national de l'énergie

CAI  
MT76  
- NS3

File 185-A000-22-3

12 February 1998

To: All Interested Parties (L01, L04)

**Re: Processing of Part VI Applications For Gas Export Licences**

The Board has decided to proceed with changes to its method of processing applications for gas export licences, as set out in its letter to interested parties dated 5 December 1997. Commencing 1 March 1998, complete applications for gas export licences made pursuant to Part VI of the *National Energy Board Act*, will be considered when received. It was the Board's previous practice to consider all such applications in semi-annual proceedings.

The Board has also decided that it will no longer require applicants to publish notification of their applications in Canadian newspapers. Instead, the Board will provide notification of all applications received to those parties who have requested to be included on its Part VI Notification Mailing List. Parties wishing to be included on the Part VI Notification Mailing List should direct their request to the Secretary of the Board.

In order that the Canadian public is aware of the Part VI Notification Mailing List, the Board intends to publish notices periodically in Canadian newspapers and on its Internet web site ([www.neb.gc.ca](http://www.neb.gc.ca)) advising parties of the need to register for inclusion on the list. The initial notice will appear in Canadian newspapers in the near future.

Yours truly,

M. L. Mantha  
Secretary





**NATIONAL ENERGY BOARD  
NOTICE TO PUBLIC**

**Re: Gas Export Licence Applications Pursuant to Part VI of the NEB Act**

- The public is advised that, commencing 1 March 1998, the NEB intends to consider all complete applications for gas export licences on a case-by-case basis as they are filed.
- The Board does not intend to require applicants to publish notice of their applications. Instead, parties who have requested to be advised of such applications will be so notified when applications are received by the Board.
- Parties wishing to be included on the Part VI Notification List should register with the Secretary of the Board at the address below.
- Additionally, notice of all applications for gas export licences will be provided on the Board's Internet web site ([www.neb.gc.ca](http://www.neb.gc.ca)) and in the Board's Library.

M. L. Mantha  
Secretary  
National Energy Board  
311-6th Avenue S.W.  
Calgary, Alberta  
T2P 3H2

Facsimile: (403) 292-5503





National Energy Board



Office national de l'énergie

CAI  
MT76  
-N 53

File No.: 132-1

21 April 1998

**TO:** ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER INTERESTED PARTIES

**Re:** **Addendum to the National Energy Board Memorandum of Guidance dated 22 April 1997 on Process Reforms Concerning Publication and Service of Electricity Applications**

The National Energy Board ("the Board") 2 April 1997 Memorandum of Guidance ("MOG") concerning electricity applications includes "Procedures for Processing Export and International Power Line Applications Under the NEB Act". In addition to publication by all applicants in Part I of the Canada Gazette, this section of the MOG includes general public notice and service direction in regard to electricity applications.

The Board has decided to revise its MOG to ensure that all export applicants, namely, those that have service areas and/or own generation - those that are pure marketers - those that may have an affiliation with the other described applicants - are treated equally in regard to NOA/DOP publication and the service of applications on interested parties.

A copy of the revised general public notice requirements is attached for your information.

Finally, in the normal course of changes to the Board's regulatory instruments, the Board notes that it has advised interested parties of such changes through direct mailings to parties on the relevant Board mailing lists, or through direct regulatory process information requests, as well as having posted relevant electricity information on the Board's internet web site (<http://www.neb.gc.ca>).

The Board is of the view that interested parties to Board proceedings generally now have internet access. Accordingly, the Board wishes to advise parties interested in electrical matters that any future regulatory changes regarding the processing of electrical matters will be made available via the Board's internet home page, through direct regulatory process information requests and through the Board's library, rather than by way of periodic mailings. Also, notification of electricity applications filed with the Board will be posted in the "What's New" section of the Board's internet web site.

Michel L. Mantha  
Secretary



## **General Public Notice Requirements**

### **(1) Requirements Applicable to All Applicants**

**In all cases**, applicants for authorizations to export electricity or to construct and operate an international power line shall, at the time of filing an application with the Board, publish a Notice of Application and Directions on Procedure ("NOA/DOP")<sup>4</sup>, in both official languages, in the Canada Gazette, Part I, in accordance with section 58.12 or 119.04 of the Act.

### **(2) Specific Requirements**

In addition to the requirements specified in (1), applicants have to comply with the following requirements:

- (a) for electricity export applications by applicants with service areas and/or who own generation, or their affiliates, for other than border accommodation transfers<sup>5</sup>, the Applicant is directed:**
  - (i) to serve a copy of its application and NOA/DOP on directly interconnected Canadian utilities, and
  - (ii) to publish the NOA/DOP on the same date (insofar as it is possible to do so) as publication occurs in the Canada Gazette, Part 1 as follows:
    - (A) in English in the largest paid general circulation English language newspaper and in French in the largest paid general circulation French language newspaper, published in the most populous community in the service area(s) from which the proposed exports may originate or where the generation is located; and
    - (B) if the community referred to in (a) is not served by a general circulation English and a general circulation French language newspaper, the NOA/DOP must be published in both official languages in the newspaper which has the largest paid circulation in that community.

---

<sup>4</sup> Examples of NOA/DOPs are attached for export applications (Appendix I(a)), border accommodations (Appendix I(b)) and international power lines (Appendices I(c) and I(d)).

<sup>5</sup> A border accommodation transfer means a transfer of power or energy for the purpose of providing electricity to a person in a foreign country who lacks ready access to services from a power system in that country, or to an international work (i.e. bridge, tunnel, etc.), or to a person in a foreign country who has lost service from a power system of that country as a result of an emergency.

National Energy Board



Office national de l'énergie

File 7200-R056-5  
10 July 1998

**BY FACSIMILE & MAIL**  
**(403) 750-1811**

Ms. Patricia M. Cradock  
Manager, Marketing  
Contracts & Regulatory  
Renaissance Energy Ltd.  
3000, 425 First Street S.W.  
Calgary, Alberta T2P 3L8

Dear Ms. Cradock:

**Re:   Hearing Order GHW-1-98 - Renaissance Energy Ltd. ("Renaissance")**  
**Application dated 24 March 1998 for a Licence to Export Natural Gas**  
**Pursuant to Part VI of the National Energy Board Act ("the Act")**

The Board has examined the evidence provided by Renaissance in support of its application for a gas export licence during the GHW-1-98 proceeding and has concluded that the Board's Market-Based Procedure ("MBP") has been satisfied. Under the MBP, the Board determines that the gas to be exported is surplus to Canadian needs if:

- (1)   there are no complaints registered under the Complaints Procedure;
- (2)   the EIA indicates that Canadians will have no difficulty in meeting their energy requirements at fair market prices;
- (3)   in the view of the Board, there are no other major public interest concerns; and
- (4)   ongoing monitoring suggests that markets are functioning normally and identifies no other issues relating to the evolution of supply or demand that cast doubt on the future ability of Canadians to meet their energy requirements.

The Board notes that no complaints were received from Canadian buyers who have been active in the market and is satisfied on the basis of the evidence that Canadians would not likely experience difficulty in meeting their energy requirements at fair market prices. With respect to the Other Public Interest Considerations, which are part of the MBP, the Board is satisfied that these have been met and that there are no other major public interest concerns. Finally, the Board notes that markets appear to be functioning normally. Accordingly, the Board is, therefore, satisfied that section 118(a) of the Act has been met in that the quantity of gas proposed to be exported would not exceed the surplus remaining after due allowance has been made for the reasonably foreseeable requirements for use in Canada, having regard to the trends in the discovery of gas in Canada.

.../2



Pursuant to section 117 of the Act, the Board has decided to issue a gas export licence to Renaissance, subject to the approval of the Governor in Council. The attachment contains the terms and conditions of the licence to be issued. Upon receipt of the approval of the Governor in Council, the Board will forward the licence to Renaissance.

Yours truly,

A handwritten signature in dark ink, appearing to read 'M. Mantha', written in a cursive style.

Michel L. Mantha  
Secretary

Attach.

cc: Mr. Don G. Davies, Counsel for Renaissance Energy Ltd.  
c/o Macleod Dixon (By Facsimile - 264-5973)  
Interested Parties to GHW-1-98



**Terms and Conditions of the Licence to be Issued to Renaissance Energy Ltd.**

1.
  - (a) Subject to condition 1(b), the term of this Licence shall commence on 1 November 1998 and shall end on 31 October 2008.
  - (b) The term of this Licence shall end on 1 November 2000 unless exports commence hereunder on or before that date.
2. Subject to condition 3, the quantity of gas that may be exported under the authority of this Licence shall not exceed:
  - (a) 663 000 cubic metres in any one day;
  - (b) 242 000 000 cubic metres in any consecutive twelve-month period ending on 31 October; or
  - (c) 2 421 000 000 cubic metres during the term of this Licence.
3.
  - (a) As a tolerance, the amount that may be exported in any 24-hour period under the authority of this Licence may exceed the daily limitation imposed in condition 2 by ten percent.
  - (b) As a tolerance the amount that may be exported in any consecutive twelve-month period under the authority of this Licence may exceed the annual limitation imposed in condition 2 by two percent.
4. Gas exported under the authority of this Licence shall be delivered to the point of export near Niagara Falls, Ontario.



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National Energy  
Board



Office national  
de l'énergie

File 3600-A000-15  
18 October 2000

To: All Oil and Gas Pipeline Companies Under the National Energy Board's Jurisdiction, and All Interested Parties

## SECTION 58 STREAMLINING ORDER XG/XO-100-2000

The National Energy Board (the Board) has revoked Streamlining Order XG/XO-100-94, as revised, dated 10 April 2000 and has replaced it with Streamlining Order XG/XO-100-2000. Order XG/XO-100-2000 incorporates changes made to the *Canadian Environmental Assessment Act* (CEA Act) *Exclusion List Regulations* and experience with the previous Streamlining Orders. The principal change is the addition of projects involving new construction and installations at existing facility sites.

Streamlining Order XG/XO-100-2000 permits projects required for the ongoing operation of Board regulated oil and gas pipelines, that do not warrant the additional regulatory oversight, to proceed without an application pursuant to section 58 of the *National Energy Board Act* (the Act). The process set out in Schedule "A" of Order XG/XO-100-2000 to identify these types of projects is illustrated in the attached flowchart.

Projects listed and meeting the criteria in Schedule "A" are either of a type that do not meet the criteria of a project pursuant to the CEA Act or are excluded from environmental assessment requirements pursuant to the CEA Act.

In addition, the Board is satisfied that the environmental effects of these projects are insignificant. Further, projects meeting the criteria in Schedule "A" would be located on existing facility sites and should not adversely affect the rights of shippers or the public. Projects undertaken pursuant to the Streamlining Order are subject to the requirements of the *Onshore Pipeline Regulations, 1999*, and may be subject to Board audits.

Reporting requirements are set out in the attached Streamlining Order. Companies and persons are reminded that the issuance of Streamlining Order XG/XO-100-2000 does not imply that expenditures have been approved for inclusion in rate base. Companies and persons wishing to include such expenditures in rate base are required to justify the expenditures under Part IV of the Act.

Should a project not be subject to the Streamlining Order, the application process may still be streamlined by identifying any of the step(s) set out in Schedule "A" that the project satisfies.

.../2

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Calgary, Alberta T2P 0X8

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Questions regarding the Streamlining Order should be directed to the Streamlining Order Coordinator at 1-800-899-1265. In addition, meetings can be scheduled, if requested, to facilitate the use and understanding of the Streamlining Order.

A copy of XG/XO-100-2000 is attached.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Michel L. Mantha', with a long horizontal flourish extending to the right.

Michel L. Mantha  
Secretary

Attachment





**ORDER XG/XO-100-2000**

**IN THE MATTER OF** the *National Energy Board Act* (the Act ) and the regulations made thereunder; and

**IN THE MATTER OF** a National Energy Board (the Board) initiative regarding exemptions in respect of the addition of specified pipeline facilities under its jurisdiction pursuant to section 58 of the Act, as set out in the Board's discussion paper dated 8 December 1993, File 3600-A000-15.

**BEFORE** the Board on 21 September 2000.

**WHEREAS** the Board issued Order XG/XO-100-94, as revised by Revisions 1 through 7, with respect to streamlining the section 58 process;

**AND WHEREAS** the Board is satisfied that projects meeting the criteria set out in Schedule "A" are routine in nature and are required for the ongoing operations of oil and gas pipelines for which an order or certificate has been issued by the Board;

**AND WHEREAS** projects meeting the criteria set out in Schedule "A" are not subject to environmental assessment pursuant to the *Canadian Environmental Assessment Act*;

**AND WHEREAS** the Board has considered environmental matters related to projects meeting the criteria set out in Schedule "A" pursuant to Part III of the Act;

**AND WHEREAS** the Board is satisfied that projects meeting the criteria set out in Schedule "A" would not likely impact the interests of persons other than those to which the respective order or certificate was issued;

**AND WHEREAS** the Board considers it to be in the public interest to grant an exemption order in respect of projects meeting the criteria set out in Schedule "A";

**IT IS ORDERED** that Order XG/XO-100-94, as revised, is revoked;

**IT IS FURTHER ORDERED** pursuant to sections 18 and 58 of the Act that projects listed and meeting the criteria set out in Schedule "A", attached to and forming part of this Order, are exempt from the provisions of sections 30, 31 and 47 of the Act, upon the following conditions:

1. Unless the Board otherwise directs, pipeline companies and persons under the Board's jurisdiction shall, for those projects satisfying the criteria set out in Schedule "A":

- a) advise the Board in writing 21 days prior to construction of any planned projects for which the anticipated expenditure is greater than \$500,000. Such reports must include a statement describing the project(s), including location(s), and the estimated cost;
  - b) serve copies of the reports required pursuant to condition 1(a) on the Section 58 Interested Parties List in the event that the project is to be undertaken by a Group 1 pipeline company;
  - c) report annually following construction, installation, or procurement on any expenditures undertaken pursuant to this Order;
  - d) report immediately, in writing, to the Board on any air, soil or groundwater contaminants, or any hazardous wastes, as defined under subsection 43(4) of the *Canadian Environmental Protection Act*, found during activities related to the construction or installation of the project(s), and provide a detailed description of the proposed disposal methods; and
  - e) for those projects undertaken and of an emergency nature, report annually to the Board providing a brief description of the project(s) and the nature of the emergency requiring immediate implementation, including the alternatives considered.
2. Unless the Board otherwise directs, all pressure testing conducted in respect of this order shall be hydrostatic pressure testing.
3. The Board directs that the pressure test reports required pursuant to section 3 of Part IX of the Board's *Guidelines for Filing Requirements*, 22 February 1995, for pipelines or sections thereof for which exemption from the requirements for leave to open have been granted, shall not be required to be filed with the Board, but shall instead be retained for audits conducted by the Board.
4. Unless the Board otherwise directs, this Order shall expire in respect of any specific project on 31 December in the year following the date on which the construction, installation or purchase of the project commenced.

NATIONAL ENERGY BOARD



Michel L. Mantha  
Secretary

**Schedule "A"**  
**Process for Identifying and Reporting on Projects Subject to**  
**Streamlining Order XG/XO-100-2000**

**Preface**

Schedule "A" is provided to facilitate companies and persons in determining whether a project under the Act is subject to Streamlining Order XG/XO-100-2000. Copies of Schedule "A" are not required to be physically completed, filed, or retained for those projects undertaken pursuant to Order XG/XO-100-2000. However, companies and persons will be required, either upon demand by the Board or during a Board audit, to demonstrate that projects undertaken pursuant to Order XG/XO-100-2000 were properly subject to this Order.

For ease of use the filing requirements set out in the body of the Streamlining Order have been included.

In determining whether a project under the Act is subject to Streamlining Order XG/XO-100-2000, it is necessary to **SEQUENTIALLY** apply **ALL** the criteria set out in Steps 1 through 6 of Schedule "A".

**STREAMLINING ORDER XG/XO-100-2000**  
**DOES NOT APPLY IF ANY BOLDED/SHADED BOX IS SELECTED.**

**STEP 1: The Project Relates to the Ongoing Operation of a Board Regulated Facility**

YES NO

1.1 The project is required for the ongoing operation of an existing oil or gas pipeline for which a Board certificate or order is in place. ....

☐☒

Intent: To permit those projects required for the ongoing operation of Board regulated pipelines that do not warrant the additional regulatory oversight afforded by the application process to proceed without an application pursuant to section 58 of the Act. This applies to those routine projects that are of a conventional type and are neither unique nor extraordinary.

**STEP 2: Projects Carried out in Response to an Emergency**

N/A<sup>1</sup> YES NO

2.1 The project is to be carried out in response to a pipeline emergency, as defined in CSA Z662 Oil and Gas Pipeline Systems, such as an uncontrolled release of service fluid, that endangers one or more of the following:

- (a) life;
- (b) the well-being and health of people;
- (c) property; and
- (d) the environment. ....

☐☐☐

<sup>1</sup>N/A denotes not applicable.

	N/A	YES	NO
2.2 The project is to be carried out in response to a national emergency for which special temporary measures are being taken under the <i>Emergencies Act</i> ,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

***Streamlining Order XG/XO-100-2000 APPLIES if a "YES" box is selected in Step 2.***

Companies and persons are reminded of the reporting requirements set out in condition 1 of Streamlining Order XG/XO-100-2000 which state:

- d) report immediately, in writing, to the Board on any air, soil or groundwater contaminants, or any hazardous wastes, as defined under subsection 43(4) of the *Canadian Environmental Protection Act*, found during activities related to the construction or installation of the project(s), and provide a detailed description of the proposed disposal methods; and
- e) for those projects undertaken and of an emergency nature, report annually to the Board providing a brief description of the project(s) and the nature of the emergency requiring immediate implementation, including the alternatives considered.

Intent: Process requirements should not delay those projects required in response to a pipeline or national emergency.

<b>STEP 3: Third Party Interests</b>
--------------------------------------

	N/A	YES	NO
3.1 There have been concerns identified by shippers regarding the project, such as:			
<ul style="list-style-type: none"> <li>• an increases in tolls;</li> <li>• access;</li> <li>• impacts on service; or</li> <li>• other concerns. ....</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.2 The project would result in local nuisance potential, including the potential for increased noise, odours, traffic, or aesthetic concerns and meets the criteria of clause 6(1)(c)(i)(D) of Part II of the Board's <i>Guidelines for Filing Requirements</i> , 22 February 1995. ....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.3 The project would be located on lands currently owned or leased by the company or person. (Owned or leased land <u>does not include</u> land upon which a company or person holds an easement only.) ....	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.4 In the event that the anticipated expenditure is greater than \$500,000, and the applicant is a Group 1 pipeline company, the Board and the Section 58 Interested Parties List have been served with copies of the report required pursuant to conditions 1(a) and (b) of Streamlining Order XG/XO-100-2000.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



Intent: To satisfy the Board's goal that projects are built and operated in a manner that protects the environment and respects individuals' rights, projects can not be allowed to proceed if adverse impacts on shipper or public interests have not been considered.

#### STEP 4: Engineering Considerations

	YES	NO
4.1 The project relates to new software or hardware for supervisory control and data acquisition (SCADA) or leak detection systems. ....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.2 The project involves an increase in operating pressure or a change in service (e.g. a change in the product that is being transported) and does not require an application pursuant to section 43 of the <i>Onshore Pipeline Regulations, 1999</i> . ....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.3 The project involves work on an in-service pipeline (i.e., contains hydrocarbons under pressure) for which there are no associated Board approved work procedures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.4 The project involves an increase in pipeline capacity and/or storage capacity. ....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.5 The project would be designed, constructed, and operated in accordance with the <i>Onshore Pipeline Regulations, 1999</i> . ....	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Companies and persons are reminded that, pursuant to condition 3 of Streamlining Order XG/XO-100-2000, pressure testing reports shall be retained for audits conducted by the Board. The information to be contained in these reports consists of the following information as per section 3 of Part IX of the Board's *Guidelines for Filing Requirements*, 22 February 1995:

- (a) reference to Board Order XG/XO-100-2000;
- (b) the location and maximum operating pressure of the pipeline facilities;
- (c) the pressure test and in-service dates of the pipeline facilities;
- (d) the company's or person's internal file number referencing the location of pressure test records as required by clause 8.6.2.4 of CSA Z662 Oil and Gas Pipeline Systems and a statement that shall:
  - identify and confirm the standards, specifications and procedures in accordance with which the pipeline facilities have been designed, constructed and tested, and
  - state that all control and safety devices have been inspected and tested for functionality.

Intent: To restrict the Streamlining Order to those projects that the Board is satisfied are routine in nature and to ensure that the design, construction, and operation is consistent with the *Onshore Pipeline Regulations, 1999*.

### STEP 5: Environmental Considerations

	YES	NO
5.1 The project would be subject to <i>Mackenzie Valley Resources Act</i> in the Northwest Territories. ....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.2 The project involves an increase in the storage or disposal of toxic substances. ....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.3 The project meets the following criteria set out in the <i>Canadian Environmental Assessment Act</i> and would:		
5.3.1 be located in a national park, park reserve, historic site or historic canal; .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.3.2 be carried out within 30 metres of a water body or involve the likely release of a polluting substance into a water body; or .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.3.3 result in an increase in airborne emissions or noise levels during operation. ....	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Companies and persons are reminded that, pursuant to condition 1 of Streamlining Order XG/XO-100-2000, companies and persons are required to:

- d) report immediately, in writing, to the Board on any air, soil or groundwater contaminants, or any hazardous wastes, as defined under subsection 43(4) of the *Canadian Environmental Protection Act*, found during activities related to the construction or installation of the project(s), and provide a detailed description of the proposed disposal methods.

Intent: Confirm that projects are not subject to environmental assessment pursuant to the *Canadian Environmental Assessment Act* and are of a nature that the Board is satisfied will result in insignificant adverse environmental effects.

### STEP 6: Eligible Projects

	YES	NO
6.1 The project is for a leasehold improvement or a purchase including vehicles, tools and equipment, mobile equipment, office equipment, personal computers, or furniture.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6.2 The project is for the proposed expansion or modification of an existing building that would not increase the footprint or height of the building by more than 10 per cent as provided for by item 4 of Part I of Schedule I (section 3) of the <i>Canadian Environmental Assessment Act Exclusion List Regulations</i> . ....	<input type="checkbox"/>	<input checked="" type="checkbox"/>

YES NO

6.3 The project is for the proposed addition and installation of the following pipeline components as provided for by subsection 30.1 (1) of Part III.1, Oil and Gas Pipelines, of Schedule I (section 3) of the *Canadian Environmental Assessment Act Exclusion List Regulations*:

- |  |                          |                                     |
|--|--------------------------|-------------------------------------|
| 6.3.1 a new connection, including a tie-in or installation of a 'T';<br>.....  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.3.2 pipe and components for instrument and control systems, in addition to line pipe <sup>2</sup> necessary for projects identified in 6.3.1 through 6.3.6; .....  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.3.3 valves, including valve vaults and pressure transmitters;<br>.....   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.3.4 compressor and pump station components, including compressors, pumps, motors, silencers, scrubbers, gas seals, system boilers, scraper traps, switch gear, transformers, and interruptible power supply; ..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.3.5 storage tank components, including mixers, liners, roofs, and ladders;<br>.....  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.3.6 quality measurement systems, including analyzers for water or basic sediment, densitometers, calorimeters, in-line viscometers, gas chromatographs, and automatic/composite samplers; or .....                 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.3.7 mechanical and electrical systems of a facility building, including plumbing, air conditioning, heating and ventilation systems, not involving the use or disposal of chlorofluorocarbons. ....                | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

6.4 The project is for repair or replacement due to age, condition, or obsolescence of the following pipeline components as provided for by item 1 of Part I, General, of Schedule I (section 3) of the *Canadian Environmental Assessment Act Exclusion List Regulations*:

- |   |                          |                                     |
|---|--------------------------|-------------------------------------|
| 6.4.1 the pipeline components identified in 6.1 or 6.3.1 through 6.3.7<br>..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.4.2 gas plant equipment; or<br>.....  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.4.3 station line pipe.<br>.....   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

***Streamlining Order XG/XO-100-2000 APPLIES if a "Yes" box is selected in Step 6 and no bolded boxes have been selected in the previous Steps 1 through 5.***

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<sup>2</sup> Line pipe must be wholly located on owned or leased land as per 3.3 of Step 3.

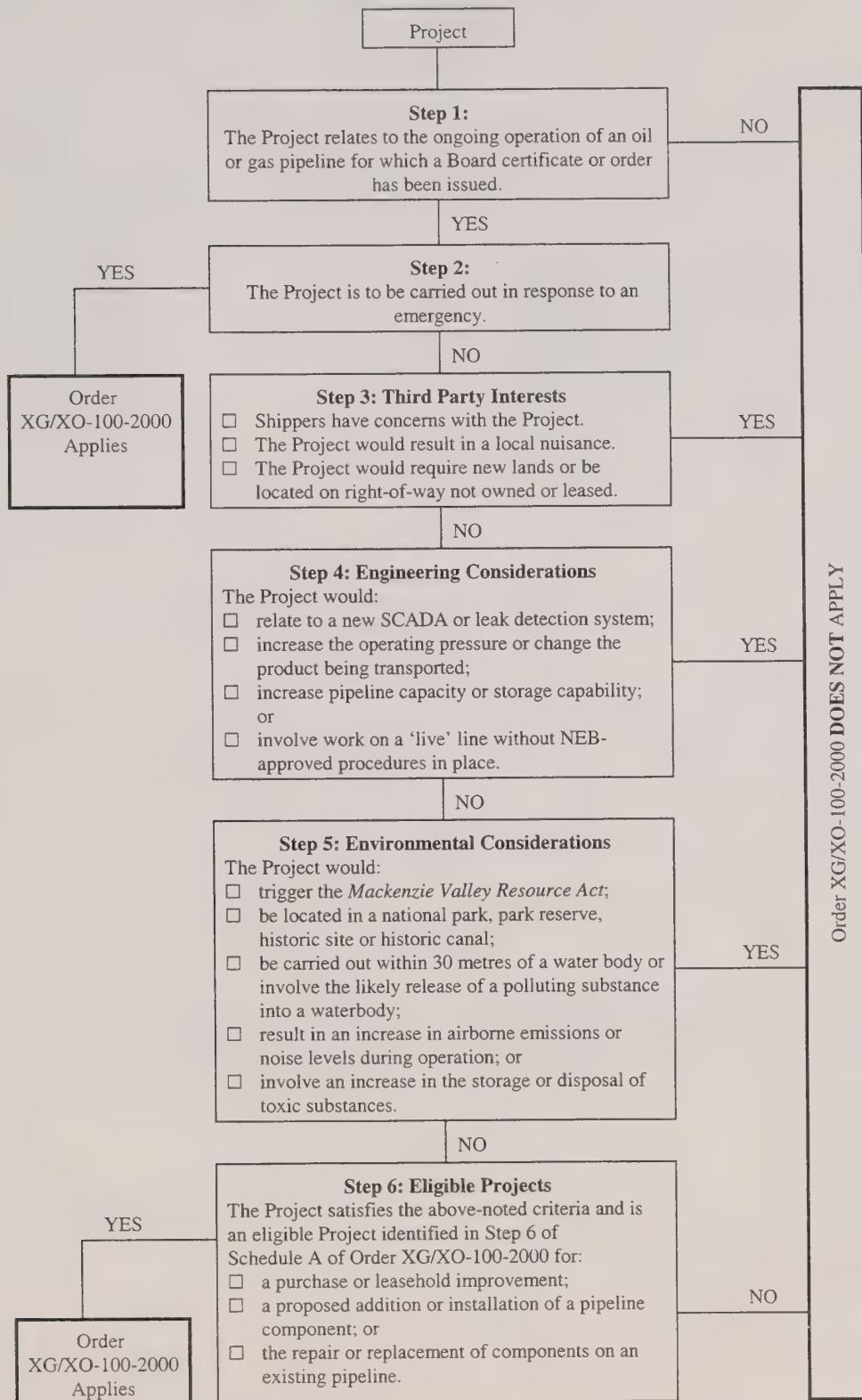
In the event that a project is subject to Streamlining Order XG/XO-100-2000 the project is subject to the following conditions:

1. Unless the Board otherwise directs, pipeline companies and persons under the Board's jurisdiction shall, for those projects satisfying the criteria set out in Schedule "A":
  - a) advise the Board in writing 21 days prior to construction of any planned projects for which the anticipated expenditure is greater than \$500,000. Such reports must include a statement describing the project(s), including location(s), and the estimated cost;
  - b) serve copies of the reports required pursuant to condition 1(a) on the Section 58 Interested Parties List in the event that the project is to be undertaken by a Group 1 pipeline company;
  - c) report annually following construction, installation, or procurement on any expenditures undertaken pursuant to this Order;
  - d) report immediately, in writing, to the Board on any air, soil or groundwater contaminants, or any hazardous wastes, as defined under subsection 43(4) of the *Canadian Environmental Protection Act*, found during activities related to the construction or installation of the project(s), and provide a detailed description of the proposed disposal methods; and
  - e) for those projects undertaken and of an emergency nature, report annually to the Board providing a brief description of the project(s) and the nature of the emergency requiring immediate implementation, including the alternatives considered.
2. Unless the Board otherwise directs, all pressure testing conducted in respect of this order shall be hydrostatic pressure testing.
3. The Board directs that the pressure test reports required pursuant to section 3 of Part IX of the Board's *Guidelines for Filing Requirements*, 22 February 1995, for pipelines or sections thereof for which exemption from the requirements for leave to open have been granted, shall not be required to be filed with the Board, but shall instead be retained for audits conducted by the Board.
4. Unless the Board otherwise directs, this Order shall expire in respect of any specific project on 31 December in the year following the date on which the construction, installation or purchase of the project commenced.

Intent: To identify the specific projects/category of projects that the Streamlining Order applies to.



**Flowchart Illustrating Criteria for Projects Subject to  
Streamlining Order XG/XO-100-2000**



*This flowchart is for illustration purposes only. Projects subject to Order XG/XO-100-2000 must satisfy the criteria set out in steps 1 through 6 of Schedule A.*



CA1  
MT 76  
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National Energy  
Board

Office national  
de l'énergie

File: 3400-R029-1  
22 December 2000

## By Facsimile and Courier

Ricks Nova Scotia Co.  
c/o Adelhard Kube  
Cimarron Engineering Ltd.  
300, 6025 11<sup>th</sup> Street S.E.  
Calgary, Alberta  
T2H 2Z2  
Facsimile (403) 252-3464

Mr. Hugh Williamson Q.C.  
Borden Ladner Gervais LLP  
1000 Canterra Tower  
400 Third Avenue S.W.  
Calgary, Alberta  
T2P 4H2  
Facsimile (403) 266-1395

Dear Messrs. Kube and Williamson:

**Ricks Nova Scotia Co. (Ricks) - GH-3-2000 Proceeding  
Ladyfern Pipeline Application Dated 19 July 2000**

The National Energy Board (the Board) has considered Ricks' application and has issued Order XG-R029-81-2000 (the Order) granting exemption, pursuant to section 58 of the *National Energy Board Act* (the Act), from the provisions of subsection 29(1), paragraph 30(1)(a), subsection 30(2) and section 31 of the Act with respect to the Ladyfern Pipeline Project. The effect of the Order is to allow Ricks to construct the Ladyfern Pipeline, subject to the terms and conditions in the Order. A Copy of the Order, the Board's Reasons for Decision, and the Environmental Screening Report are enclosed.

The Board draws to Ricks' attention the final clause of the Order, which must be complied with to the satisfaction of the Board pursuant to section 19 of the Act.

The Board reminds Ricks of its commitment to file its Construction Safety Manual ten days prior to the start of construction of the approved facilities. Further, as the Board has not granted exemption from the requirements of paragraph 30(1)(b) and section 47 of the Act, Ricks will be required to apply to the Board for leave to open before initiating service.

Yours truly,

8th

Michel L. Mantha  
Secretary

Enclosures

c.c.: Parties to the GH-3-2000 Proceeding

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Calgary, Alberta T2P 0X8

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**Ricks Nova Scotia Co. - Ladyfern Pipeline Project**  
**Application dated 19 July 2000 Pursuant to Section 58 of the *National Energy Board Act* (the Act)**  
**to Construct the Ladyfern Pipeline at the British Columbia/Alberta Border**  
**GH-3-2000 Proceeding**

**Reasons for Decision**

**1.0 Introduction**

On 19 July 2000, Ricks Nova Scotia Co. (Ricks) applied to the National Energy Board (the Board) for exemption pursuant to section 58 of the *National Energy Board Act* (the Act) from the provisions of sections 29 through 33 and section 47 of the Act with respect to the proposed Ladyfern Pipeline Project in northeastern British Columbia and northwestern Alberta. Ricks also applied to be regulated as a Group 2 Company for the purposes of toll and tariff regulation.

As a responsible authority under the *Canadian Environmental Assessment Act* (the CEAA), the Board carried out an environmental screening of the proposed Ladyfern Pipeline Project.

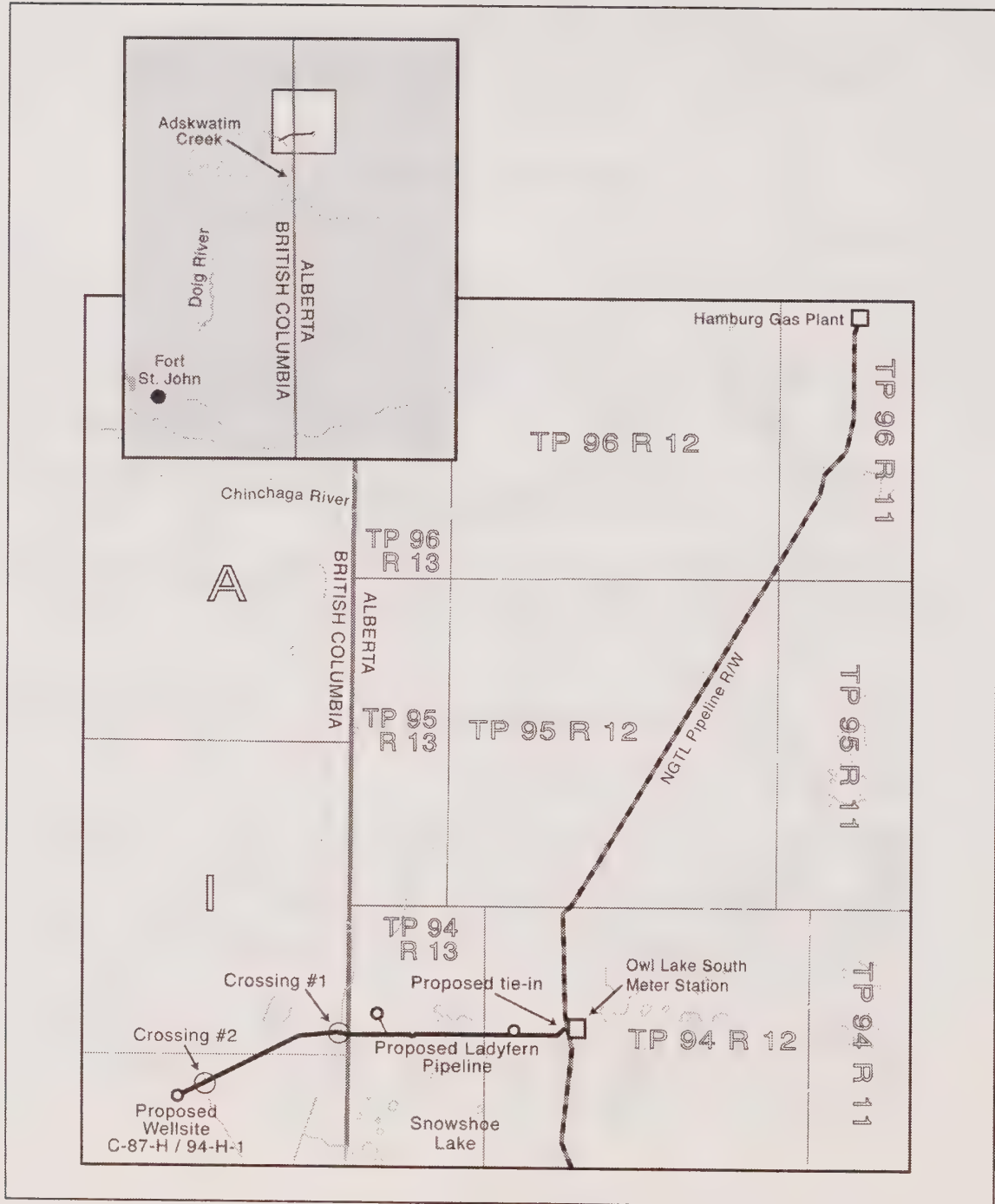
The Board decided to consider the application in an oral public hearing and issued Hearing Order GH-3-2000 on 7 November 2000, which set out the Directions on Procedure for the hearing. The hearing was held in Calgary on 6 and 7 December 2000.

Appearances were registered at the hearing by Ricks, Apache Canada Ltd. (Apache), Murphy Oil Company Ltd. (Murphy), Nova Gas Transmission Ltd. (NGTL), and the Province of Alberta.

**2.0 Facilities Description and Engineering Matters**

Ricks proposes to construct approximately 12 km of 273.1 mm OD (NPS 10) natural gas pipeline referred to as the Ladyfern Pipeline. The Ladyfern Pipeline would originate at a proposed well at c-87-H/94-H-1 in British Columbia and terminate at the existing NGTL Owl Lake South Meter Station at 20-94-12 W6M in Alberta. The pipeline would have a maximum operating pressure of 11 722 kPag (1 700 psig), and would be designed to meet *Canadian Standards Association Standard Z662-99 Oil and Gas Pipeline Systems* (CSA Z662-99) engineering specifications for sour gas service. The pipeline is expected to carry sweet natural gas but would be designed and constructed for sour service, with a hydrogen sulphide (H<sub>2</sub>S) concentration of up to 25 ppm, using Grade 359, Category II pipe. The estimated capital cost of the project is approximately \$3 million. Construction activities would occur in February 2001.

Figure 2-1 Proposed Ladyfern Pipeline Project



Ricks proposes to use a horizontal directional drilling (HDD) method to cross two watercourses, one at Adskwatim Creek and the second at a tributary to Adskwatim Creek. Ricks stated that if the HDD method is unsuccessful, it would use open cut methods to cross these watercourses. Ricks further stated that its pipeline would be buried with a minimum cover of 1.5 m in perennially frozen ground and to a greater depth as required to ensure the pipe is laid on competent soil. The proposed right-of-way crosses two pipelines, both contained in a single right-of-way.

In its application, Ricks proposes to pressure test the Ladyfern Pipeline using air as the test medium. Ricks submitted its *Odourized Pneumatic Test Procedure* dated 21 November 2000. Ricks' procedure would involve performing a minimum 4 hour strength test at 125% of the maximum operating pressure (MOP), followed by a minimum 24 hour leak test between 110% and 125% of MOP. An odourant would be added to the test medium and trained dogs able to detect the presence of the odourant would be used to identify possible leaks during the pressure test.

In addition to the facilities described above, Ricks would require NGTL to construct new metering and related facilities at the proposed Owl Lake South No. 2 Meter Station to accept natural gas from Ricks. Although these proposed metering facilities are not part of Ricks' application to the Board, they were included in the environmental screening assessment discussed in Section 4 of these Reasons for Decision. These facilities would be regulated by the Alberta Energy and Utilities Board (AEUB). By letter dated 4 December 2000, NGTL stated that it anticipates filing an application with the AEUB in early January 2001, and that it is currently engaged in the public notification and consultation phase of the Owl Lake South No. 2 Meter Station project. The proposed facilities would be constructed on existing NGTL land.

With respect to the operation of the proposed Ladyfern Pipeline, Ricks stated that it was the owner and would have overall management responsibility for the pipeline. Predator Corporation Ltd. (Predator), a privately held corporation incorporated under the laws of Alberta, would have operating responsibility for the pipeline as an agent for Ricks. Predator would supervise the day-to-day field operations of the pipeline, which will be carried out by an operating contractor out of Manning, Alberta or Fort St. John, British Columbia. Ricks would not be actively involved in the day-to-day operations except under certain circumstances such as during construction, if there was an emergency, or if Ricks was concerned that the level of supervision and care was not being exercised at the standards it required.

### *Views of the Board*

The Board is satisfied with the proposed design of the Ladyfern Pipeline, including the proposed HDD method and proposed alternative methods for watercourse crossings, subject to the conditions discussed below.

The Board has included conditions in the attached Order for the filing of various documents as required by the *Onshore Pipeline Regulations, 1999* (OPR-99) to be submitted prior to the construction or operation of the Ladyfern Pipeline. The conditions emphasize the requirement for Ricks to file: (i) its final Pipeline Construction Specifications; (ii) its Operations and Maintenance Manual<sup>1</sup>;

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<sup>1</sup>

Refer to section 27 of the OPR-99 and for further details, see related Guidance Notes.



(iii) an Emergency Procedures Manual<sup>2</sup>; and (iv) an Audit Program<sup>3</sup> for the proposed Ladyfern Pipeline.

With respect to the proposed odourized pneumatic testing of the pipeline, the Board is of the view that Ricks' test procedure, as described in its Odourized Pneumatic Test Procedure, complies with the requirements of CSA Z662-99. However, because Ricks is a new company under the Board's jurisdiction and is proposing to pressure test using air as the test medium, the Board denies Ricks' request for exemption from paragraph 30(1)(b) and section 47 of the Act. Ricks will therefore be required to file a leave to open application in accordance with Part IX of the Board's *Guidelines for Filing Requirements (1995)* (the Guidelines).

With respect to the operation of the pipeline, the Board requires Ricks to provide specific information regarding the responsibilities of the selected contractor that will be carrying out field operations. As such, the Board has included a condition in its Order requiring Ricks to file its operating agreement and the contractor's qualifications.

### 3.0 Public Consultation

Ricks stated that all stakeholders and administrators of the land, including provincial, regional and local government authorities, affected trappers, and the Doig River First Nation were notified of the project in June 2000 and that, due to the competitive nature of the project, newspaper notices were not published until the application was filed. Ricks also stated that section 87 notices for the acquisition of land were issued to parties of interest in August and September 2000.

Ricks submitted that it is clear from the Board's Guidelines that the level of detail of information required should correspond to the nature and magnitude of the project. In this case the project is a 12 km pipeline to be constructed entirely on crown land.

In letters dated 11 and 18 August 2000, Murphy and Apache respectively submitted that Ricks had failed to comply with the requirements of the Board's Guidelines concerning Early Public Notification (EPN). Part II of the Guidelines, section 4, requires an applicant to provide interested parties adequate time to comment on a project prior to filing an application.

Ricks submitted that commercial sensitivity in a highly competitive environment was in this case an important factor to be considered in assessing the appropriate level of consultation with interested parties. Ricks indicated that prior to completion of land sales in the area on 19 July 2000, Ricks, Murphy, Apache and Beau Canada Exploration Ltd. (Beau Canada) were active participants and competitors in acquiring lands in the Ladyfern area.

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<sup>2</sup> Refer to section 32 of the OPR-99 and for further details, see related Guidance Notes.

<sup>3</sup> Refer to section 53 of the OPR-99 and for further details, see related Guidance Notes.



Ricks submitted that as early as April 2000 there were contacts between representatives of Ricks and representatives of Murphy, Apache and Beau Canada to discuss, among other things, access to existing pipelines for Ricks' volumes and the prospects for a joint venture. Ricks stated it was told by Murphy and Apache that there was no capacity and there would be no capacity this winter for Ricks' gas. Apache, by letter dated 1 December 2000, had provided Ricks with an estimate of \$15 million to expand the existing Hamburg Gas Plant to accommodate 100 MMcf/d of natural gas for Ricks. Ricks submitted that shipping gas to the Hamburg Gas Plant would require Ricks to lay three times as much pipe as the proposed Ladyfern Pipeline.

During the hearing, Ricks provided an update with respect to its public consultation program. Specifically, Ricks stated that it had additional contact with the two registered trappers affected by the proposed pipeline, namely Mr. Morin and Ms. Rothlisberger and her family.

Ricks stated that Mr. Morin had indicated that the proposed pipeline would intersect his trapline at two locations and may interfere with access to one of his cabins. Mr. Morin told Ricks that he would prefer no interference from the oil and gas industry. Mr. Morin specifically requested Ricks to level snow banks at access points and to contact him prior to construction. Ricks submitted that it had agreed to both requests. Mr. Morin indicated that he would like to be considered for slashing work when construction begins and that if construction negatively affected his trapping operation he would seek compensation. Ricks submitted that it would keep him posted, work with him closely on this project, and compensate him if what it proposed doing caused financial harm.

Ricks stated that during discussions with Ms. Rothlisberger, it was informed that the Rothlisbergers currently have no trap lines along the route and do not anticipate trapping in the area this winter. However, Ricks was requested to ensure the proposed route followed existing clearings as much as possible, and to clean up whatever brush is created in the construction process as soon as possible. Ricks has agreed to both requests.

Ricks indicated that it is continuing discussions with the Doig River First Nation which began before the Application was filed. At the time of the hearing, Ricks was not aware of any outstanding issues or concerns of the Doig River First Nation with respect to the construction of the pipeline.

### ***Views of the Board***

The Board is of the view that Ricks effectively commenced its EPN before the filing of the application, as demonstrated by discussions with the Doig River First Nation and by Ricks' communications with Murphy, Apache and Beau Canada regarding its requirements to transport gas. The Board notes from the evidence that Murphy and Apache told Ricks they had no capacity to transport Ricks' gas this winter.

The Board notes, in accordance with Part I of the Guidelines, that the level of detail of the information required in Part II of the Guidelines shall correspond to the nature and magnitude of the anticipated environmental impact of the proposed project. The Board believes that, in this case, the public consultation program was satisfactory.

#### 4.0 Environment, Land and Socio-Economic Matters

The Board considered environmental matters related to the proposed project pursuant to the Act and the CEEA. The Board completed an environmental screening report (the Screening Report) pursuant to sub-section 18(1) of the CEEA which also meets the requirements of the Board's own regulatory process. In addition, the Screening Report contains information regarding the environmental conditions to be included in any order with respect to the application and addresses matters pertaining to public consultation. The Board circulated a draft Screening Report to those public agencies that submitted letters of comment and to Ricks. No party to the proceeding requested a copy of the draft Screening Report.

The Board considered the Screening Report including the comments received from Ricks on the draft Screening Report. No other comments were received with respect to the draft Screening Report. The Board determined that, taking into account the conditions included in the attached Order, the Ladyfern Pipeline Project is not likely to cause significant adverse environmental effects. This represents a decision pursuant to paragraph 20(1)(a) of the CEEA and was taken prior to making a decision under Part III of the Act with respect to the applied-for facilities.

The proposed route for the Ladyfern Pipeline follows existing corridors for most of its 12 km length, is divided almost equally between Alberta and British Columbia and is located entirely on Crown Land. Applications to Alberta and British Columbia have been made for surface rights. Ricks has been advised that these applications would be processed after the Board has dealt with this application.

Ricks stated that it would require a 15 m wide permanent right-of-way and identified three areas where temporary work space would be required: two 10 m by 60 m work spaces to accommodate HDD activities and one 5 m by 40 m work space at NE 23-94-13 W6M, where two pipelines are crossed by the proposed right-of-way.

With respect to the socio-economic effects of this project, Ricks stated that the region is generally uninhabited, and is located outside of the community planning interest of municipal agencies. However, it is within the General Land Use Zone of the Fort St. John Land and Resource Planning Area. The closest settlements are those of the Doig River First Nation and Fort St. John in British Columbia, and Worsley in Alberta. Land use activities were identified by Ricks as being oil and gas developments, hunting and trapping, and traditional use by the Doig River First Nation.

Ricks stated the Doig River First Nation identified concerns regarding the creation of an all weather road and future employment. Ricks stated it would not construct an all weather road and that it would do its utmost to provide employment opportunities for the Doig River First Nation. Ricks submitted that support services for this project would be provided from the Doig River First Nation and from Fort St. John. Construction workers would reside at an existing 400 person permanent camp located in Alberta and access to the work site would be via an existing winter road. Operational services would be drawn from Fort St. John, British Columbia or Manning, Alberta. Ricks submitted that the socio-economic effects of the project would consist of a short-term increase in demand for services and an injection of money into the local economy.



### ***Views of the Board***

The Board has considered the potential impacts of the construction of the proposed pipeline on crown lands, including the amount of land required for easements and temporary work space. The Board finds that Ricks' anticipated requirements for easements and temporary work space are reasonable and justified.

Pursuant to its mandate under the Act, the Board has considered the evidence received in accordance with the GH-3-2000 Directions on Procedure and is of the view that, taking into account the implementation of Ricks' proposed mitigative measures and those set out in the conditions included in the attached Order, the Ladyfern Pipeline Project is not likely to cause significant adverse effects to the environment.

## **5.0 Economic Viability**

### ***5.1 Markets***

Ricks plans to sell the gas it will produce in the Ladyfern area on the general Alberta spot market.

### ***5.2 Supply***

Ricks indicated that the proposed pipeline project would rely on gas supply from wells to be drilled in the Ladyfern area. Ricks estimated the sales gas supply in the Ladyfern Slave Point A pool to be  $2\,458\,10^6\text{m}^3$  (87 Bcf). This estimate was based on extrapolated reservoir data identified for the Hamburg Field, which is the closest analogue to the Ladyfern geological structure.

At the time of the hearing, Ricks had yet to drill a well in the Ladyfern area, which is only accessible for drilling and construction activity in winter. Ricks stated that it expected to commence drilling in early December 2000 at two locations (c-87-H and a-98-H/94-H-1) and that it should obtain well-test results by late December. Two other locations (d-90-H and a-100-H/94-H-1) are planned to be drilled this winter, following completion of the first two wells. In its additional written evidence, Ricks proposed a condition that would provide proof for adequacy of gas supply by showing a minimum aggregate calculated absolute open flow rate of  $845\,10^3\text{m}^3/\text{d}$  (30 MMcf/d) prior to any Board order taking effect.

Ricks indicated that its pipeline would be economically viable even with drilling results substantially lower than the annual volumes and total reserves it expects from its wells. Taking into consideration the cost of the pipeline, wellsite facilities and a potential amine processing unit, Ricks indicated that it could pay out its investment within a 3.5 year period based on an estimated gas reserve supply of  $198\,10^6\text{m}^3$  (7 Bcf) at an initial production rate of  $198\,10^3\text{m}^3/\text{d}$  (7 MMcf/d).

Apache and Murphy examined the information used to support the estimate of gas supply. Apache concluded that there was an absence of producible gas reserves and, therefore, no gas supply evidence to support the need for the proposed facilities. Murphy also indicated there was

no credible supply evidence for reserves determination. Apache and Murphy submitted that the application should, therefore, be denied. In the alternative, Apache argued that any order should not take effect until Ricks has filed with the Board flow and build-up test data that would demonstrate a sustainable minimum delivery rate of  $845 \times 10^3 \text{ m}^3/\text{d}$  (30 MMcf/d) at 9 mPa flowing tubing head pressure. Murphy argued that the Board should not include such a condition as, in essence, it would be conditioning the most fundamental basis for an Order and submitted that if a condition was included, other parties should have the opportunity to test what is ultimately filed by Ricks.

### *Views of the Board*

When an applicant proposes to build a commercially at-risk pipeline, the Board generally wishes to see the facility operate at a reasonable level of utilization over its economic life. Overall, the Board can be satisfied that this will be the case if there is a reasonable expectation that there will be sufficient gas to supply the project and that the gas will be able to find markets.

With respect to markets, the Board considers that Ricks' plan to sell its gas on the Alberta spot market is reasonable given the gas volumes expected to be shipped.

In determining overall gas supply for a proposed facility, the Board assesses established gas reserve supply and also evaluates the undiscovered gas potential within any likely catchment area that could support the proposed facility.

The Board notes that the first two wells Ricks plans to drill are adjacent to a producing gas well and would be considered to have established gas reserves under the probable reserve category. The other well locations would be more properly considered to have undiscovered gas resources due to the increased distance from known gas wells.

The Board places greater confidence in stochastic methodologies in quantifying undiscovered gas resource supply and will expect the use of such methodologies to take precedence over the more traditional single estimate when determining the undiscovered gas supply. This is due to the ability of the methodologies to incorporate the uncertainty inherent in estimating various reservoir parameters and provide a range of gas resource estimates that incorporate the probability at which a gas resource estimate is likely to occur.

Although in this case Ricks used a single estimate for gas supply to support its application, the Board is satisfied that there is a reasonable expectation that sufficient gas supply exists. The Board notes that the estimated gas reserves far exceed the levels of supply required to make the project economically feasible.

With respect to the inclusion of a condition requiring Ricks to demonstrate a sustainable minimum delivery rate, the Board believes that the last clause of the attached Order is sufficient and appropriate in the circumstances of this case.



Subject to the last clause of the attached Order being met, the Board expects that the proposed pipeline will be used at a reasonable level over its economic life.

## 6.0 Financial, Tolls, Tariffs, and Transportation Matters

Ricks is incorporated in Nova Scotia and registered to carry on business in Nova Scotia, British Columbia and Alberta. The shareholders of Ricks are Ricks Canada, Inc. (Ricks Canada) and OPUBCO Canada, Inc. (OPUBCO Canada). Ricks Canada is a wholly owned subsidiary of Ricks Exploration Inc. (Ricks Exploration) and OPUBCO Canada is a wholly owned subsidiary of OPUBCO Resources, Inc. (OPUBCO Resources). Both Ricks Exploration and OPUBCO Resources are privately held companies. Ricks is the owner of the proposed pipeline with Ricks Exploration having overall management responsibility for investment, development and operations activities of Ricks.

The cost of the proposed pipeline is approximately \$3 million. Ricks indicated that it will assume all the financial risks of the proposed facilities and that financing will be provided by Ricks Exploration through internally generated funds.

While questions confirming the estimated present value of Ricks' oil and gas assets were posed during the hearing, Ricks' ability to finance the project through Ricks Exploration was not challenged. Ricks reiterated that, assuming an initial production rate of only  $198 \times 10^3 \text{ m}^3/\text{d}$  (7 MMcf/d) and reserves of only  $198 \times 10^6 \text{ m}^3$  (7 Bcf), Ricks could pay out its investment in its wellsite facilities, pipeline and if required, an amine plant in 3.5 years.

Ricks indicated that while it has no third party shippers it intends to offer service to third parties, although it has yet to determine the types of service that might be offered, as well as the terms and conditions of such services. No intervenor expressed an interest in this matter.

Ricks applied to the Board to be regulated on a complaint basis as a Group 2 company.

In its letter dated 11 August 2000, Murphy stated that in its view, Ricks is not a "company" as defined in section 2 of the Act, because Ricks is not incorporated or continued under the *Canada Business Corporations Act*.

### *Views of the Board*

The Board is satisfied that Ricks is able to finance the proposed pipeline.

The Board has decided to exempt Ricks from the requirement of subsection 29(1) of the Act, without deciding whether Ricks is or is not a "company" as defined in section 2 of the Act. Therefore, under paragraph 29(3)(c) of the Act, Ricks will be deemed to be a "company" for purposes of the Act.

The Board is of the view that, for administrative purposes, Ricks should be regulated as a Group 2 Company in accordance with the Board's *Memorandum of Guidance on the Regulation of Group 2 Companies*, dated 6 December 1995. Ricks must advise the Board if there is any significant change in the ownership or business enterprise of the pipeline.

The Board notes that while Ricks has indicated that it has no third party shippers, it intends to offer service to third party shippers. Accordingly, Ricks is required to inform the Board before it starts charging tolls for such service.

The Board also advises Ricks that paragraphs 5(2)(a) through (c) of the *Gas Pipeline Uniform Accounting Regulations* apply to Ricks.

The Board further advises Ricks that the cost of this project, including any overruns, may be subject to examination pursuant to the Board's responsibilities under Part IV of the Act.

## 7.0 Disposition

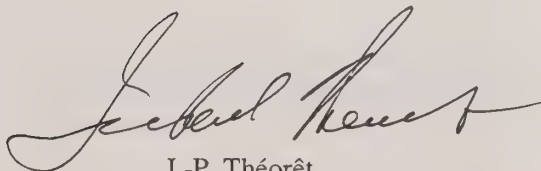
The foregoing constitutes our Reasons for Decision with respect to the Ladyfern Pipeline Project. The Board has decided, pursuant to section 58 of the Act, to issue Order XG-R029-81-2000 granting exemption from the provisions of subsection 29(1), paragraph 30(1)(a), subsection 30(2) and section 31 of the Act with respect to the Ladyfern Pipeline Project, provided that the last clause of the Order, pursuant to section 19 of the Act, is satisfied. A copy of the Order is attached, the effect of which is to allow Ricks to construct the Ladyfern Pipeline, subject to the terms and conditions in the Order.

The Board has not granted Ricks an exemption from the requirements of paragraph 30(1)(b) and section 47 of the Act. Ricks will therefore be required to apply to the Board for leave to open before initiating service.

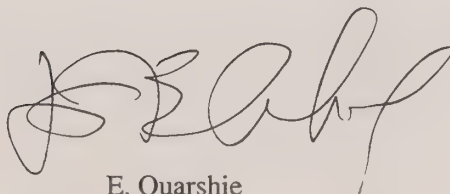
The Board has decided to regulate Ricks as a Group 2 Company for the purposes of toll and tariff regulation.



D. E. Emes  
Presiding Member



J.-P. Théorêt  
Member



E. Quarshie  
Member

Calgary, Alberta  
Dated 20 December 2000







**ORDER XG-R029-81-2000**

**IN THE MATTER OF** the *National Energy Board Act*  
(the Act) and the regulations made thereunder; and

**IN THE MATTER OF** an application, pursuant to  
section 58 of the Act, by Ricks Nova Scotia Co. (Ricks),  
dated 19 July 2000, filed with the Board under  
File No. 3400-R029-1.

**BEFORE** the Board on 20 December 2000.

**WHEREAS** the Board has received an application from Ricks for the construction of a natural gas pipeline of approximately 12 kilometres in length beginning northeast of Fort St. John in British Columbia and ending at the Nova Gas Transmission Ltd. Owl Lake South Meter Station in northwestern Alberta (the Ladyfern Pipeline Project);

**AND WHEREAS**, pursuant to the *Canadian Environmental Assessment Act* (CEAA), the Board has considered the information submitted by Ricks and all other documents on the public registry, including submissions received on the draft Environmental Screening Report issued by the Board on 8 December 2000, and has conducted an environmental screening of the Ladyfern Pipeline Project and has prepared an Environmental Screening Report;

**AND WHEREAS** the Board has determined, pursuant to paragraph 20(1)(a) of the CEAA that, taking into account the implementation of Ricks' proposed mitigative measures and those set out in the attached conditions, the Ladyfern Pipeline Project is not likely to cause significant adverse environmental effects;

**AND WHEREAS** the Board has examined the application and considers it to be in the public interest to grant the relief requested;

**IT IS ORDERED** pursuant to section 58 of the Act that the Ladyfern Pipeline Project is exempt from the provisions of subsection 29(1), paragraph 30(1)(a), subsection 30(2) and section 31 of the Act, upon the following conditions:

General

1. Ricks shall cause the approved facilities to be designed, manufactured, located, constructed, installed and operated in accordance with those specifications, drawings and other information or data set forth in its Application or as otherwise adduced in evidence before the Board in the GH-3-2000 proceeding.
2. Ricks shall implement or cause to be implemented all of the policies, practices, and procedures for the protection of the environment included in or referred to in its Application or as otherwise adduced in evidence before the Board during the GH-3-2000 proceeding.

Prior to Commencement of Construction

3. Ricks shall file with the Board for approval, at least 14 days prior to the commencement of construction including clearing of vegetation or ground-breaking activities, an Environmental Protection Plan.
4. Ricks shall file with the Board for approval, at least 14 days prior to the commencement of construction including clearing of vegetation or ground-breaking activities, a specific reclamation plan to assess the effectiveness of the revegetation plan, including:
  - (a) a schedule for filing reports with the Board, and
  - (b) copies of all correspondence demonstrating consultation with appropriate regulatory agencies in developing the plan.
5. Ricks shall file with the Board at least 10 days prior to the commencement of construction of the approved facilities, its final Pipeline Construction Specifications. Ricks' Construction Specifications shall include specifications for the horizontal directional drills to be carried out at the Adswkatim Creek and Tributary to the Adswkatim Creek.

During Construction

6. Ricks shall notify the Board of any change from the proposed HDD stream crossing method and the reasons for the change prior to implementing the change. Ricks shall also file with the Board copies of all correspondence from regulatory authorities relating to the proposed alternate method. Within 1 month of changing the proposed stream crossing method, Ricks shall file with the Board for approval, an amended reclamation plan (see Condition 4) that updates reclamation and revegetation activities for the affected stream crossings.
7. Ricks shall, during construction, maintain for audit purposes at each construction site, a copy of the welding procedures and non-destructive testing procedures used on the project together with all supporting documentation.
8. Ricks shall maintain a file at each construction site with copies of all applicable permits or authorizations obtained.

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9. Ricks shall notify the Board, at least 10 days prior to pressure testing, of any modifications to the Odourized Pneumatic Test Procedure dated 21 November 2000 and of whether test heads or pig launcher/receivers will be used for the pressure test.
10. Ricks shall not carry out construction, clean-up or reclamation activities in Alberta between 1 March and freeze up as stated in Ricks Caribou Protection Plan (Application Appendix A3), which was developed in accordance with the *Operating Guidelines for Industrial Activity in Caribou Ranges* in northwest Alberta.

Prior to the Commencement of Operation

11. Ricks shall file with the Board, at least 10 days prior to the commencement of operation, the following documents:
  - (a) the operations and maintenance manual required pursuant to section 27 of the *Onshore Pipeline Regulations, 1999* (OPR-99);
  - (b) the emergency procedures manual required pursuant to section 32 of the OPR-99; and
  - (c) the operating agreement with the operating contractor, including the contractors' name and qualifications.
12. Ricks shall develop an audit program for the protection of property, the environment, and the safety of the public and company employees pursuant to section 53 of the OPR-99. Ricks shall file the audit program with the Board, at least ten (10) days prior to start of construction, including clearing of vegetation or ground-breaking activities.

Expiration of Order

13. Unless the Board otherwise directs prior to 31 December 2002, this Order shall expire on 31 December 2002 unless the construction and installation with respect to the applied-for facilities has commenced by that date.

**IT IS FURTHER ORDERED** pursuant to section 19 of the Act that this Order shall not come into force until Ricks has filed with the Board well test data demonstrating a minimum gas deliverability flow rate of  $845 \text{ } 10^3 \text{ m}^3/\text{d}$  (30 MMcf/d) for delivery through the proposed facilities.

NATIONAL ENERGY BOARD



Michel L. Mantha  
Secretary







File ADV-PE-LandMC 01  
17 January 2008



To: General Mail List  
Aboriginal Organizations

### Land Matters Consultation Initiative

On 3 October 2007, the National Energy Board announced that, as part of its review of some key issues related to land matters, the Land Matters Consultation Initiative (LMCI) would be established. The decision to review issues related to land matters has resulted from the Board's view that the processes and procedures in place with respect to land matters could be improved. The Board's objective for this review is to achieve the potential outcomes identified in the Proposed Approach (attached) so that land matters are appropriately and effectively included in the Board's public interest considerations.

The LMCI will provide a forum for all interested parties and the Board to engage in dialogue and generate options for the Board's review of issues related to land matters. The Board is of the view that providing a venue for dialogue to improve understanding of various interests will help to develop strong working relationships among different parties and will also help shape the tools that will most effectively support the long-term responsible development of Canada's energy infrastructure. The LMCI will focus primarily on the range of tools available (such as regulations, guidance notes, filing manual, inspections, audits, etc.) under the existing legislative framework and improvements to that suite of tools.

Parties who wish to participate in or monitor the activities of the LMCI are asked to register their interest online at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) after selecting the "Land Matters Consultation Initiative" icon. Registration will also be accepted by contacting Jane Morales at (403) 299-3933 (direct) or 1-800-899-1265 (toll free).

Registered participants will receive materials directly by mail or email. Current information about the LMCI will continue to be posted on the Board's website. However, **only those parties who register their interest will receive materials directly by mail or email.** Background Notes and Discussion Papers will be distributed by 29 February 2008; parties who wish to receive a copy of these materials directly are asked to register by 15 February 2008.

The Board is issuing the LMCI Proposed Approach (attached). This document identifies the topics which will be considered through the consultation process, the steps to be followed and the timeframe. Parties are invited to provide comments on the Proposed Approach for the LMCI by 6 February 2008. Comments may be submitted when registering on-line as a participant in the LMCI.

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Comments can also be filed electronically through the Board's electronic document repository at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) (click on "Regulatory Documents" and "Submit documents electronically" to file a document).

Alternatively, comments may be provided by sending a letter, either by mail, courier or facsimile to:

Ms. Claudine Dutil-Berry  
Secretary of the Board  
National Energy Board  
444 - 7<sup>th</sup> Avenue S.W.  
Calgary, AB T2P 0X8  
Facsimile 403-292-5503

The Board will issue the final LMCI Approach by 25 February 2008.

The Board looks forward to dialogue with interested parties on the key land matters identified in the LMCI. As a result of working together with landowners, companies and others who are most directly impacted by pipeline infrastructure, steps will be taken to provide greater clarity and understanding on the rights and interests of all parties, to continuously improve the accessibility of NEB processes, and to bring more certainty to issues related to pipeline abandonment.

Yours truly,

A handwritten signature in dark ink, appearing to read "Claudine Dutil-Berry", with a stylized flourish at the end.

Claudine Dutil-Berry  
Secretary of the Board

Attachment

## **Land Matters Consultation Initiative Proposed Approach**

### **Introduction**

On 3 October 2007, the National Energy Board (the Board) announced that, as part of its review of some key issues related to land matters, the Land Matters Consultation Initiative (LMCI) would be established. The decision to review issues related to land matters has resulted from the Board's view that the processes and procedures in place with respect to land matters could be improved. The Board's objective for this review is to achieve the potential outcomes identified in this Proposed Approach so that land matters are appropriately and effectively included in the Board's public interest considerations.

The LMCI will provide a forum for all interested parties and the Board to engage in dialogue and generate options for the Board's review of issues related to land matters. The Board is of the view that providing a venue for dialogue to improve understanding of various interests will help to develop strong working relationships among different parties and will also help shape the tools that will most effectively support the long-term responsible development of Canada's energy infrastructure. The LMCI will focus primarily on the existing tools available (such as regulations, guidance notes, filing manual, inspections, audits, etc.) under the current legislative framework and improvements to that suite of tools.

Based on the nature of the issues and the stakeholders who may be interested, the Board is proposing to consider the LMCI topics in four streams:

1. Company Interactions with Landowners;
2. Improving the Accessibility of NEB Processes;
3. Pipeline Abandonment – Financial Issues; and
4. Pipeline Abandonment – Physical Issues.

This document provides a description of each stream, an indication of the desired outcomes and the proposed approach for the LMCI.

In addition to the proposed workshops noted below, the Board will prepare background papers and may initiate additional meetings with interested groups to increase understanding of the issues. Following the consultation processes, the Board will consider the input that has been provided, make its decisions and provide feedback to interested parties on how public input influenced the final outcomes.

Questions on the information in this document, or any aspect of the LMCI may be directed to:

Karla Reesor  
Project Manager, LMCI  
403 299 3867 (direct)  
1 800 899 1265 (toll free)  
kreesor@neb-one.gc.ca



or

Dana Cornea  
Assistant Project Manager, LMCI  
403 299 2740 (direct)  
1 800 899 1265 (toll free)  
dcornea@neb-one.gc.ca

For assistance in French, please contact:

Lorna Patterson  
403 221 3010 (direct)  
1 800 899 1265 (toll free)

### **Stream 1: Company Interactions with Landowners**

The Board uses a goal-oriented, life-cycle approach in its regulatory oversight for energy facilities projects, from the time an infrastructure project is contemplated through to the end of its useful life. Using this approach and considering the Board's public interest mandate, Stream 1 will focus on selected land matters which have been raised by landowners as issues of concern and which broadly include interactions between landowners and a pipeline company at any point in the lifecycle of a project.

As part of the LMCI, the Board is interested in developing a common understanding among parties about existing mechanisms and processes which address the interests and concerns each has with respect to the topics identified below. Additionally, with a view towards continuous improvement, the Board will work with parties to develop ways to address the topics identified and to ensure that processes are meeting parties' needs efficiently and effectively.

#### **Topics identified:**

- **Landowner Notification and Company Consultation Programs**  
Meeting notification requirements and identification of best practices for consultation
- **Process of Acquiring Access to Right of Way**  
Procedures for providing notice, sharing information and reaching timely agreements
- **Vehicle Crossings of the Right of Way**  
Identification of consistent and appropriate processes for seeking permission to cross



As part of a broader review of land matters, the Board is continuing to improve its regulatory programs around the goal of “respecting the rights of those affected”. Through the LMCI, the Board is interested in hearing parties’ views on the adequacy and appropriateness of its existing programs and what it should expect from companies when they plan and execute their notification and consultation programs. Approaches to verify company compliance with the Board’s expectations could include landowner surveys, audits and inspections of company records.

***Potential outcomes of the LMCI:***

- *improved understanding of expectations, mechanisms and processes currently in place to address the topics identified;*
- *improved understanding of existing rights and responsibilities for all parties with respect to the topics identified;*
- *identification of possible regulatory improvements to address the topics identified, within existing legislative authorities. These could include changes to the Filing Manual, preparation of guidance notes or development of best practice documents; and*
- *identification of possible approaches to verify compliance including landowner surveys, audits and inspections of company practices and records.*

**Stream 2: Improving the Accessibility of NEB Processes**

The NEB has heard from many landowners that it can be difficult to participate effectively in the NEB’s processes, such as public hearings for proposed facilities. Major concerns relate to the formality of the oral hearing, a lack of funding for intervenors and the capacity of the public to intervene without legal representation. The NEB has also heard that some landowners feel that the transparency of decision-making processes related to regulatory change could be improved.

With past input in mind, Stream 2 will focus on the NEB’s application review and hearing process for proposed facilities and the processes to change and develop new regulations within the NEB’s jurisdiction. It will also consider other processes such as the landowner complaint and Appropriate Dispute Resolution processes if requested. Hearings related to toll and tariff matters are not included within the scope of Stream 2. The NEB wants to better understand landowner concerns and wishes to develop options in collaboration with interested parties for improving access to NEB processes.

The NEB acknowledges that activities are underway within the federal government to improve the efficiency and effectiveness of environmental assessment and regulatory processes for resource development and infrastructure projects. With this in mind, Stream 2 will focus on recommendations that are within the NEB’s control and influence.

***Potential outcome of the LMCI:***

- *options are developed to improve access to and understanding of NEB processes.*

**Proposed Approach for Streams 1 and 2: Company Interactions with Landowners and Improving the Accessibility of NEB Processes**

While the outcomes from Streams 1 and 2 could be quite different, the Board anticipates that many of the same stakeholders will be interested in the topics related to both Company Interactions and NEB Processes. Therefore, one consultation process is proposed for both streams.

NEB releases Background Notes for each of the topics included in Streams 1 and 2 to assist in framing future discussions between the NEB and stakeholders.	February 2008
<p>The Board encourages interested parties to participate in whatever way best meets their needs. Options for providing input on Streams 1 and 2 will include:</p> <ol style="list-style-type: none"> <li>1. Submitting comments in writing;</li> <li>2. Requesting a meeting with NEB staff (and perhaps other stakeholders); and</li> <li>3. Attending workshops in March. The format, timing and approach of the workshops will be defined in consultation with interested stakeholders. The NEB's intention is to provide an effective forum for various stakeholders to engage in focused dialogue.</li> </ol>	<p>February/March/April 2008</p> <p>Note: The Board will do its best to accommodate requests for meetings. However, depending on the volume of requests, alternative arrangements may have to be considered.</p>
NEB will issue a report which outlines results of the consultation process. Parties will be invited to provide comments in writing on the report.	May 2008
NEB reviews the input received and reports on the outcomes achieved and implementation steps.	June/July 2008

### **Stream 3: Pipeline Abandonment – Financial Issues**

The topic of pipeline abandonment includes the factors that will need to be assessed and decided upon by the Board and potentially other federal and provincial departments and agencies prior to or at the end of life for a pipeline.

In initiating this discussion, the Board seeks comments on key principles that should guide the Board in its deliberations on this matter. Two key principles the Board believes are fundamental to its future decisions with respect to the financial matters related to pipeline abandonment are outlined below:

1. Abandonment costs are a legitimate cost of providing service and are recoverable upon Board approval from users of the system.
2. Landowners will not be liable for costs of pipeline abandonment.

The key issue to be decided related to the financial aspect of abandonment is:

What is the optimal way to ensure that funds are available when abandonment costs are incurred?

#### ***Potential outcomes of the LMCI:***

- *Development of a set of principles which will guide the Board in its future decisions with respect to the financial matters related to pipeline abandonment;*
- *Preliminary mechanism to begin setting aside funds for abandonment costs is identified;*
- *Identification of technical abandonment assumptions to be used to estimate abandonment costs; and*
- *An action plan is developed to move forward on remaining financial issues including issues unique to each pipeline company.*



### **Proposed Approach for Stream 3: Pipeline Abandonment – Financial Issues**

Stream 3 will proceed concurrently with Stream 4 (Pipeline Abandonment – Physical Issues).

NEB will release: <ul style="list-style-type: none"> <li>• Discussion Paper which will summarize the past relevant documents and identify the proposed financial issues which need to be decided related to abandonment; and</li> <li>• Directions on Procedure for a process to review the issues and reach decisions by the Board.</li> </ul>	February 2008
Interested parties will be invited to provide comments in writing on the proposed issues and process.	February/March 2008
If there is sufficient interest, the NEB will host a procedural conference to consider the list of issues and the proposed process.	March/April 2008
NEB will issue final Directions on Procedure and list of issues.	April 2008
Depending on the interest of parties, there will be an opportunity for either written or oral questions to other parties.	May/June 2008
Oral or written argument on the issues	June/July 2008
Board decision	October/November 2008

### **Stream 4: Pipeline Abandonment – Physical Issues**

In Stream 4, the Board intends to initiate discussions and activities that will confirm the existing state of knowledge and will explore the possibility for collaboration on a plan for future research related to the physical issues of abandonment. A potential starting point for determining the desired end-state after a pipeline is abandoned is that NEB's goals 1 and 2 continue to be met, and that section 21 of the Onshore Pipeline Regulations (OPR) continues to be satisfied. In other words:

- The facilities and activities are safe and secure and perceived to be so (NEB Goal 1);
- The facilities are built and operated in a manner that protects the environment and respects the rights of those affected (NEB Goal 2); and
- After a pipeline is constructed, the right of way and temporary work space shall be restored to a condition similar to the surrounding environment and consistent with current land use (OPR, section 21).



The key issues to be decided related to the physical aspects of abandonment are:

How should the desired end-state of land post-abandonment be defined?

What is the optimal way of ensuring the desired end-state is achieved?

***Potential outcomes of the LMCI:***

- *Principles are established for defining the end-state of land post-abandonment;*
- *Needs are identified with respect to standard development, research gaps and multi-jurisdictional collaboration; and*
- *An action plan is developed to move forward on physical issues.*

**Proposed Approach for Stream 4: Pipeline Abandonment – Physical Issues**

NEB will release a Discussion Paper which summarizes the past relevant documents, provides the current context and outlines the physical issues related to abandonment. The paper will include key questions to be addressed and will propose steps that could be taken to resolve them including additional research, collaboration among key parties and further review.	February 2008
Interested parties will be invited to provide comments in writing on the proposed issues and the proposed steps. Alternatively, parties may request a meeting with NEB staff (and perhaps other stakeholders) to increase understanding of the issues and develop workable solutions.	February/March 2008
NEB will host a workshop to consider the issues and discuss the best approaches for resolving the physical issues.	March 2008
NEB will issue a report which outlines results of the consultation process and communicates Board decisions on the respective issues considered.	May 2008



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National Energy  
Board



Office national  
de l'énergie

File OF-Surv-OpAud 01  
8 June 2010

To: All Companies under the Jurisdiction of the National Energy Board  
and All Interested Parties

### **NEB MANAGEMENT AND PROTECTION PROGRAM EVALUATION AND AUDIT PROTOCOL**

The National Energy Board's (NEB) *Onshore Pipeline Regulations* (OPR-99) require NEB regulated companies to develop and implement management and protection programs. The purpose of these programs is to ensure the safety and security of people, pipelines, property and the environment. Companies are allowed flexibility to design individual programs that meet the nature and scope of their businesses; however, the programs must meet relevant legal requirements.

As part of its compliance verification activities, the Board conducts audits of its regulated companies to ensure the adequacy and effectiveness of their management and protection programs.

As part of its continual improvement process, the Board has recently reviewed its audit program and developed an evaluation and audit protocol. This protocol reflects, in part, feedback received from key stakeholders. In order to assist companies prepare for NEB audits, the Board is issuing the attached "Management and Protection Program Evaluation and Audit Protocol".

The Board encourages all companies to use this protocol in the development of their management and protection programs and their internal audit processes.

If you have any questions please contact Ken Colosimo for communication in English at 403-292-4926 or Marc Pauzé for communication in French at 403-299-2790.

Yours truly,

A handwritten signature in cursive script that reads "Anne-Marie Erickson".

Anne-Marie Erickson  
Secretary of the Board

Attachment

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Calgary, Alberta T2P 0X8

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National Energy  
Board



Office national  
de l'énergie

**National Energy Board  
Management and Protection Program  
Evaluation and Audit Protocol**

**Revision: 1  
26 April 2010**

**Canada**

## **National Energy Board (the Board): Management and Protection Program Evaluation and Audit Protocol**

### **Background**

The National Energy Board's *Onshore Pipeline Regulations* (OPR-99) requires companies to develop and implement management and protection programs in order to anticipate, prevent, mitigate and manage conditions that may adversely affect the safety and security of the company's pipelines, employees, the general public, as well as property and the environment. Areas that require management include:

- Safety (OPR-99, sections 4 and 47);
- Environment (OPR-99, sections 4 and 48);
- Integrity (OPR-99, sections 4 and 43)
- Emergency Management (OPR-sections 4, 32, 47 and 48);
- Security (Proposed Regulatory Change 2006-01); and
- Pipeline Crossings (OPR-99, sections 4, 47 and 48 and *Pipeline Crossing Regulations, Part II*).

The Board expects that companies have fully developed and implemented management and protection programs. Companies that have been under the Board's jurisdiction for a short period of time are expected to demonstrate programs which are in appropriate stages of development. The OPR-99 is a goal-oriented regulation. It is a risk-based approach that relies on the use of management and protection programs (designed to protect people, property and the environment) to comply with both prescriptive and performance based requirements. As a result, companies are not bound by any particular method, framework or standard when developing their internal management and protection programs, as long as legal requirements are met.

### **National Energy Board Program Evaluation and Audit Protocol**

Companies will be audited and evaluated against the legal requirements identified in the *National Energy Board Act* (NEB Act) and its associated regulations, other relevant legislation and regulations, and any conditions contained within the applicable Board certificates or orders (legal requirements). As part of this audit process and in accordance with OPR-99, companies will be audited and evaluated against the processes, procedures and standards that each company identifies as being part of its management and protection program(s).

The Board has developed a standardized protocol, which will be utilized to evaluate company management and protection programs during all future Board audits. The audit protocol has been organized in a table format for ease of reference. The table has been divided into five elements and sixteen sub-elements. A complete description of the elements and sub-elements, including legal references is attached. The goal of this audit protocol is to ensure that corporate programs meet the relevant legal requirements. This protocol is not a prescriptive requirement for program format or design expected.

## Continual Improvement Initiatives

The Board is committed to encouraging and recognizing continual improvement initiatives within management and protection programs. The Board's intention is that audits should not identify companies as "Non-Compliant" when they do not meet their own "stretch" goals or are unable to implement best practices which have been identified as being above and beyond legal requirements. Accordingly, companies will have to clearly identify where they have incorporated stretch targets or goals in their management and protection programs and what they consider to be the minimum baseline legal requirement(s). In these cases, the audits will evaluate and report the adequacy, effectiveness and implementation of the programs relative to the identified baseline legal requirements.

## Reporting

Following the Board's review of the company's management and protection programs, the Board will develop an audit report containing its findings of compliance and non-compliance. Findings of compliance and non-compliance are defined as follows:

- |                 |   |
|-----------------|---|
| Compliant:      | A program element meets legal requirements <sup>1</sup> . The company has demonstrated that it has developed and implemented its programs, process and procedures to meet legal requirements.   |
| Non-Compliant:  | A program element does not meet legal requirements. The company has not demonstrated that it has developed and implemented its programs, process and procedures to meet the legal requirements. A Corrective Action Plan (CAP) is required. |
| Recommendation: | An opportunities to improve practices or to change practices that are currently in compliance but have the potential, based on professional judgment, to lead to non-compliance. A CAP will not be required.                                |

Following the issuance of the final audit report, companies will be required to develop and implement a CAP to address any non-compliance. The CAP will be approved by the Board. A complete description of the Board's audit process including pre- and post-audit requirements will be provided to companies during the audit notification and planning process.

## Applicability

The evaluation and audit protocol will be used to evaluate the management and protection programs against legal requirements. If the facilities regulated by the Board comprise only a portion of a company's facilities, the company is not specifically required to develop separate programs for its NEB-regulated facilities. In these instances, the company will need to

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<sup>1</sup> The phrase "legal requirements" used in this document means the legal requirements identified in the *National Energy Board Act* (NEB Act) and its associated regulations, other relevant legislation and regulations, and any conditions contained within the applicable Board certificates or orders.

demonstrate that its management and protection programs, as applied, meet the legal requirements.

## **Contact**

The Management and Protection Program Evaluation and Audit Protocol is maintained and administered by the National Energy Board's Operations Business Unit.

National Energy Board Website: [neb-one.gc.ca](http://neb-one.gc.ca)

Operations Business Unit Contacts:

Ken Colosimo, Technical Specialist

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## NEB MANAGEMENT AND PROTECTION PROGRAM EVALUATION AND AUDIT ELEMENTS

<b>1.0 POLICY AND COMMITMENT</b>			
<b>1.1 Policy and Commitment Statements</b>			
<b>Expectations:</b> The company shall have a policy approved and endorsed by senior management (the Policy). It should include goals and objectives and commit to improving the performance of the company.			
<b>References:</b> <sup>2</sup>			
<u>Environment:</u> OPR-99 sections 4 and 48 CSA Z662-07 Clause 10.2.2	<u>Safety:</u> OPR-99 sections 4 and 47 CSA Z662-07 Clause 10.2.2	<u>Integrity:</u> OPR-99 sections 4, 47 and 48 CSA Z662-07 Clauses 10.2.2 and 10.14	<u>Crossing and Awareness:</u> OPR-99 sections 4, 47 and 48 CSA Z662-07 Clause 10.2.2 <u>Emergency Management:</u> OPR sections 4, 47 and 48 CSA Z662-07 Clause 10.2.2
<b>2.0 PLANNING</b>			
<b>2.1 Hazards Identification, Risk Assessment and Control</b> <sup>3</sup>			
<b>Expectations:</b> The company shall be able to demonstrate a procedure to identify all possible hazards. The company should assess the degree of risk associated with these hazards. The company should be able to support the rationale for including or excluding possible risks in regard to its environment, safety, integrity, crossings and awareness and emergency management and protection programs (management and protection programs). The company should be able to implement control measures to minimize or eliminate the risk.			
<b>References:</b>			
<u>Environment:</u> OPR-99 sections 4 (2) and 48 CSA Z662-07 Clause 10.2	<u>Safety:</u> OPR-99 sections 4(2) and 47 CSA Z662-07 Clause 10.2	<u>Integrity:</u> OPR-99 sections 4 (2), 39, 40, 41 CSA Z662-07 Clauses 10.2, 10.3.1.1 (d), 10.14.1 (a)(b), 16.2	<u>Crossing and Awareness:</u> OPR-99 sections 4(2), 37, 39, 40, 41 CSA-Z662-07 Clause 10.2, 10.14 <u>Emergency Management:</u> OPR-99 sections 4(2), 33, 37, 39, 40, 47, 48 CSA Z662-07 Clauses 10.2, 10.3.2

<sup>2</sup> Each "Reference" in this table contains specific examples of the "legal requirements" applicable to each element but are not necessarily a complete list of all applicable legal requirements.

<sup>3</sup> Hazard: Source or situation with a potential for harm in terms of injury of ill health, damage to property, damage to workplace environment, or a combination of these. Risk: Combination of the likelihood and consequence(s) of a specified hazardous event occurring

## 2.2 Legal Requirements

**Expectations:** The company shall have a verifiable process for the identification and integration of legal requirements into its management and protection programs. The company should have a documented procedure to identify and resolve non-compliances as they relate to legal requirements which includes updating the management and protection programs as required.

### References:

<u>Environment:</u> OPR-99 sections 4, 6 and 48 CSA Z662-07 Clause 10.2.2 (g)	<u>Safety:</u> OPR-99 sections 4, 6 and 47 CSA Z662-07 Clause 10.2.2 (g)	<u>Integrity:</u> OPR-99 sections 4, 6, 40 and 41(1) CSA Z662-07 Clause 10.14	<u>Crossing and Awareness:</u> OPR-99 sections 4 and 6 PCR Part II sections 4 and 5 CSA Z662-07 Clause 10.2.2(g)	<u>Emergency Management:</u> OPR-99 sections 4, 6, 32, 40, 47 and 48 CSA Z662-07 Clause 10.2.2(g)
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## 2.3 Goals, Objectives and Targets

**Expectations:** The company should have goals, objectives and quantifiable targets relevant to the risks and hazards associated with the company's facilities and activities (i.e. construction, operations and maintenance). The objectives and targets should be measurable and consistent with the Policy and legal requirements and ideally include continual improvement and prevention initiatives, where appropriate.

### References:

<u>Environment:</u> OPR-99 section 48 CSA Z662-07 Clause 10.2.2 (h) (ii)	<u>Safety:</u> OPR-99 section 47 CSA Z662-07 Clause 10.2.2 (h) (ii)	<u>Integrity:</u> OPR-99 sections 40, 47 and 48 CSA Z662-07 Clauses 10.2.2 (h) (ii) and 10.14.1	<u>Crossing and Awareness:</u> OPR-99 sections 47 and 48 CSA-Z662-07 Clause 10.2.2(h) (ii)	<u>Emergency Management:</u> OPR sections 40, 47 and 48 CSA-Z662-07 Clause 10.2.2(h) (ii)
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### 3.0 IMPLEMENTATION

#### 3.1 Organizational Structure, Roles and Responsibilities

**Expectations:** The company shall have an organizational structure that allows its management and protection programs to effectively function. The company should have clear roles and responsibilities, which may include responsibilities for the development, implementation and management of the management and protection programs.

##### References:

<u>Environment:</u> OPR-99 section 48 CSA Z662-07 Clauses 10.2.1 and 10.2.2 (b)	<u>Safety:</u> OPR-99 section 47 CSA Z662-07 Clauses 10.2.1 and 10.2.2 (b)	<u>Integrity:</u> OPR-99 sections 40, 47 and 48 CSA Z662-07 Clauses 10.2.1, 10.2.2 (b) and 10.14	<u>Crossings and Awareness:</u> OPR-99 sections 40, 47 and 48 CSA-Z662-07 Clauses 10.2.1 and 10.2.2 (b)	<u>Emergency Management:</u> OPR-99 sections 40, 47 48 CSA Z662 Clauses 10.2.2(b), 10.3.2.4
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#### 3.2 Management of Change

**Expectations:** The company shall have a management of change program. The program should include:

- identification of changes that could affect the management and protection programs;
- documentation of the changes; and
- analysis of implications and effects of the changes, including introduction of new risks or hazards or legal requirements.

##### References:

<u>Environment:</u> OPR-99 section 6 CSA Z662-07 Clause 10.2.2 (g)	<u>Safety:</u> OPR-99 section 6 CSA Z662-07 Clause 10.2.2 (g)	<u>Integrity:</u> OPR-99 section 6 CSA Z662-07 Clauses 10.2.2(g)	<u>Crossings and Awareness:</u> OPR-99 section 6 CSA-Z662-07 Clause 10.2.2 (g)	<u>Emergency Management:</u> OPR-99 section 6 CSA-Z662-07 Clause 10.2.2(g)
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### 3.3 Training, Competence and Evaluation

**Expectations:** The company shall have a documented training program for employees and contractors related to the company's management and protection programs. The company shall inform visitors to company maintenance sites of the practices and procedures to be followed. Training requirements should include information about program-specific policies. Training should include emergency preparedness and environmental response requirements as well as the potential consequences of not following the requirements. The company should determine the required levels of competency for employees and contractors. Training shall evaluate competency to ensure desired knowledge requirements have been met. Training programs should include record management procedures. The training program should include methods to ensure staff remains current in their required training. The program should include requirements and standards for addressing any identified non-compliances to the training requirement.

### References:

<u>Environment :</u>	<u>Safety :</u>	<u>Integrity:</u>	<u>Crossings and Awareness:</u>	<u>Emergency Management:</u>
OPR-99 sections 28, 29, 30 (b) 46, 48 and 56 CSA Z662-07 Clause 10.2.2 (c)	OPR-99 sections 28, 29, 30 (b), 46, 47 and 56 CSA Z662-07 Clause 10.2.2 (c)	OPR-99 sections 4, 18, 29 and 46 CSA Z662-07 Clauses 10.2, 10.5 and 10.14	OPR-99 sections 28, 29, 30 (b), 46, 47, 48 and 56 CSA Z662-07 Clause 10.2.2(c)	OPR-99 sections 28, 34, 35, 46 and 56 CSA Z662-07 Clauses 10.2.2 (c), 10.3.2.4

### 3.4 Communication

**Expectations:** The company should have an adequate, effective and documented communication process(es):

- to inform all persons associated with the company's facilities and activities (interested persons) of its management and protection programs policies, goals, objectives and commitments;
- to inform and consult with interested persons about issues associated with its operations;
- to address communication from external stakeholders;
- for communicating the legal and other related requirements pertaining to the management and protection programs to interested persons;
- to communicate the program's roles and responsibilities to interested persons.



<b>References:</b>				
<u>Environment:</u> OPR-99 sections 18, 28, 29 and 48 CSA Z662-07 Clause 10.2.2 (d)	<u>Safety:</u> OPR-99 sections 18, 28, 29 and 47 CSA Z662-07 Clause 10.2.2 (d)	<u>Integrity:</u> OPR-99 sections 4, 18, 28, 29, 40, 47 and 48 CSA Z662-07 Clauses 10.2.2 (d) and 10.14	<u>Crossings and Awareness:</u> OPR-99 sections 18, 28 and 29 CSA Z662-07 Clause 10.2.2 (d) PCR Part II sections 4 and 5	<u>Emergency Management:</u> OPR-99 sections 28, 29, 33, 34, 35 CSA Z662 Clauses 10.2.2(d), 10.3.2.2, 10.3.2.3
<b>3.5 Documentation and Document Control</b>				
<b>Expectations:</b> The company should have documentation to describe the elements of its management and protection programs- where warranted. The documentation should be reviewed and revised at regular and planned intervals. Documents should be revised immediately where changes are required as a result of legal requirements or where failure to make immediate changes may result in negative consequences. The company should have procedures within its management and protection programs to control documentation and data as it relates to the risks identified in element 2.0.				
<b>References:</b>				
<u>Environment:</u> OPR-99 sections 27, 48 and 56 CSA Z662-07 Clause 10.2.2 (e) (f)	<u>Safety:</u> OPR-99 sections 27, 47 and 56 CSA Z662-07 Clause 10.2.2 (e) (f)	<u>Integrity:</u> OPR-99 sections 4, 27, 47, 48 CSA-Z662 Clauses 10.2.2 (e) (f), 10.3.1.1 (d) and 10.14.1	<u>Crossings and Awareness:</u> OPR-99 section 27 CSA-Z662 Clause 10.2.2 (e)(f) PCR Part II sections 10 and 11	<u>Emergency Management:</u> OPR-99 sections 27 and 32 CSA Z662-07 Clause 10.2.2(e), (f), 10.3.1.1(d)
<b>3.6 Operational Control-Normal Operations</b>				
<b>Expectations:</b> The company should establish and maintain a process to develop, implement and communicate mitigative, preventive and protective measures to address the risks and hazards identified in elements 2.0 and 3.0. The process should include measures to reduce or eliminate risks and hazards at their source, where appropriate.				

<b>References:</b>				
<u>Environment:</u> OPR-99 sections 27-49 CSA Z662-07 Clauses 10.2.2 (f) and 10.3.1	<u>Safety:</u> OPR-99 sections 27-49 CSA Z662-07 Clauses 10.2.2 (f) and 10.3.1	<u>Integrity:</u> OPR-99 sections 4, 27, 36, 37, 39 and 40 CSA Z662-07 Clause 10	<u>Crossings and Awareness:</u> OPR-99 sections 27-49 CSA Z662-07 Clauses 10.2.2 (f) & 10.3.1 PCR Part II sections 4 and 5	<u>Emergency Management:</u> OPR-99 sections 27-49 CSA Z662-07 Clauses 10.2.2(f), 10.3.1
<b>3.7 Operational Control-Upset or Abnormal Operating Conditions</b>				
<b>Expectations:</b> The company shall establish and maintain plans and procedures to identify the potential for upset or abnormal operating conditions, accidental releases, incidents and emergency situations. The company shall also define proposed responses to these events and prevent and mitigate the likely consequence and/or impacts of these events. The procedures must be periodically tested and reviewed and revised where appropriate (for example, after emergency events).				
<b>References:</b>				
<u>Environment:</u> OPR-99 sections 32, 35 and 52 CSA Z662-07 Clauses 10.3.2 and 10.3.5	<u>Safety:</u> OPR-99 sections 32, 35 and 52 CSA Z662-07 Clause 10.3.2	<u>Integrity:</u> OPR-99 sections 4, 32, 37, 40 and 52 CSA Z662-07 Clauses 10.2, 10.3.2 and 10.14	<u>Crossings and Awareness:</u> OPR-99 sections 32, 52 CSA-Z662-07 Sections 10.3.2 and 10.14	<u>Emergency Management:</u> OPR-99 sections 32, 35 and 52 CSA Z662-07 Clause 10.3.2
<b>4.0 CHECKING AND CORRECTIVE ACTION</b>				
<b>4.1 Inspection, Measurement and Monitoring</b>				
<b>Expectations:</b> The company shall develop and implement surveillance and monitoring programs. These programs should address contract work being performed on behalf of the company. These programs should include qualitative and quantitative measures for evaluating the management and protection programs and should, at a minimum, address legal requirements as well as the risks identified as significant in elements 2.0 and 3.0. The company should integrate the surveillance and monitoring results with other data in risk assessments and performance measures, including proactive trend analyses. The company shall have documentation and records of its surveillance and monitoring programs.				

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### 4.3 Records Management

**Expectations:** The company shall establish and implement procedures to ensure that the records supporting the management and protection programs are retained, accessible and maintained. The company shall, as a minimum, retain all records for the minimum lengths of time as required by the applicable legislation, regulation and standards incorporated by reference into the regulation.

#### References:

<u>Environment:</u> OPR-99 sections 48 and 56 CSA Z662-07 Clause 10.2.2 (e)	<u>Safety:</u> OPR-99 sections 47 and 56 CSA Z662-07 Clause 10.2.2 (e)	<u>Integrity:</u> OPR-99 sections 4, 41 and 56 CSA Z662-07 Clauses 9.11, 10.2, 10.3, 10.4 and 10.14	<u>Crossings and Awareness:</u> OPR-99 sections 41, 51, 52, 56 CSA-Z662-07 Clause 10.2.2 (e) and 10.14 PCR Part II sections 10(c), 11(1) and 16	<u>Emergency Management:</u> OPR-99 sections 32, 47, 48, 52, and 56 CSA Z662-07 Clauses 10.2.2(e)
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### 4.4 Internal Audit

**Expectations:** The company shall develop and implement a documented process to undertake audits of its management and protection programs and procedures. The audit process should identify and manage the training and competency requirements for staff carrying out the audits. These audits shall be conducted on a regular basis.

#### References:

<u>Environment:</u> OPR-99 sections 53 and 55 CSA Z662-07 Clause 10.2.2 (c) and (h) (iii)	<u>Safety:</u> OPR-99 sections 53 and 55 CSA Z662-07 Clause 10.2.2 (c) and (h) (iii)	<u>Integrity:</u> OPR-99 sections 4, 53 and 55 CSA Z662-07 Clauses 10.2.2 (c) and (h) (iii)	<u>Crossings and Awareness:</u> OPR-99 section 53 CSA Z662-07 Clause 10.2.2(h)	<u>Emergency Management:</u> OPR-99 sections 53 and 55 CSA Z662-07 Clause 10.2.2 (c) and (h)(iii)
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### 5.0 MANAGEMENT REVIEW

**Expectations:** Senior management should formally review the management and protection programs for continuing suitability, adequacy and effectiveness. The review should be based on appropriate documentation and records including the results of the surveillance, monitoring and audit programs. This review should be formal and documented and should occur on a regular basis. The management review should include a review of any decisions, actions and commitments which relate to the improvement of the programs and the company's overall performance.



**References:**

<u>Environment:</u> OPR-99 section 55 CSA Z662-07 Clause 10.2.2 (h) (iii)	<u>Safety:</u> OPR-99 section 55 CSA Z662-07 Clause 10.2.2 (h) (iii)	<u>Integrity:</u> OPR-99 sections 4, 40 and 55 CSA Z662-07 Clauses 10.2.2 (h) (iii) and 10.14.1	<u>Crossings and Awareness:</u> OPR-99 section 53 CSA Z662-07 Clauses 10.2.2 (h) (iii) PCR Part II, sections 4 and 5	<u>Emergency Management:</u> OPR-99 section 55 CSA Z662-07 Clause 10.2.2(h)(iii)
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National Energy  
Board



Office national  
de l'énergie

File OF-EP-Gen-AODR 01  
10 June 2010

## **PUBLIC REVIEW OF ARCTIC SAFETY AND ENVIRONMENTAL OFFSHORE DRILLING REQUIREMENTS**

As Canada's regulator for oil and gas exploration and production in the Arctic, the National Energy Board announced on 11 May 2010 that it would conduct a review of Arctic safety and environmental offshore drilling requirements.

The review will include gathering information and knowledge from Aboriginal organizations, the residents of Arctic communities, technical experts, governments, other regulators, industry, and other participants. The results of the review will be incorporated in the examination, by the Board, of future applications for offshore drilling in the Arctic.

Those who wish to participate in the review are invited to register. A preliminary scope for the review is attached. You are requested to register and provide any comments on the scope by **16 July 2010**. You can register on the Board's website at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) or by providing contact information, including name, affiliation (if any) with an organization, mailing address, e-mail address, fax numbers and phone numbers to:

Anne-Marie Erickson  
Secretary of the Board  
National Energy Board  
444 Seventh Avenue S.W.  
Calgary, AB T2P 0X8  
Facsimile 403-292-5503  
(please quote file OF-EP-Gen-AODR 01)

After considering input received, the Board will announce further details of this review. Updates and further information will be posted on the Board's website.

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444 Seventh Avenue SW  
Calgary, Alberta T2P 0X8

444, Septième Avenue S.-O.  
Calgary (Alberta) T2P 0X8

Canada

Telephone/Téléphone : 403-292-4800  
Facsimile/Télécopieur : 403-292-5503  
<http://www.neb-one.gc.ca>  
Telephone/Téléphone : 1-800-899-1265  
Facsimile/Télécopieur : 1-877-288-8803

For further information, please call the Board's Regulatory Officers, Danielle Comte at 403-299-2731 or Erin Dutcher at 403-299-2782. You may also call toll-free at 1-800-899-1265.

Yours truly,

A handwritten signature in cursive script that reads "AnneMarie Erickson". The signature is written in dark ink and is positioned above the printed name and title.

Anne-Marie Erickson  
Secretary of the Board

Attachment



## **Public Review of Arctic Safety and Environmental Offshore Drilling Requirements Preliminary Scope**

This review is to support the ongoing implementation of the technical requirements for conducting offshore drilling under the *Canada Oil and Gas Operations Act*<sup>1</sup> in compliance with the *Canada Oil and Gas Drilling and Production Regulations*<sup>2</sup>. The review will engage industry and the public in examining the best available information concerning the hazards, risks and mitigation measures associated with offshore drilling activities in the Canadian Arctic and the measures to both prevent and respond to accidents and malfunctions. The results of the review will be incorporated in the examination, by the Board, of future applications for offshore drilling in the Arctic.

The scope of this review will include:

### ***Drilling safely while protecting the environment***

1. Hazards and risks in conducting Arctic offshore drilling;
2. Effectiveness of measures employed to prevent and mitigate the risks associated with such activities;
3. State of knowledge on the Arctic offshore including the physical environment, biological environment and geosciences;
4. Effectiveness of available well control methods;

### ***Responding effectively when things go wrong***

5. State of preparedness to respond to drilling accidents and malfunctions in Canada's Arctic offshore;
6. Options for regaining well control;
7. Effectiveness of available spill containment and clean up options;
8. Financing spill clean-up, restoration and compensation for loss or damage;
9. State of knowledge of long term impacts of a spill on the environment, way of life and communities in Canada's Arctic;

### ***Learnings***

10. Lessons learned from major accidents and malfunctions, particularly those relevant to northern offshore environments;

### ***Filing requirements***

11. Information to be required from an applicant seeking authorization to drill an offshore well.

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<sup>1</sup> <http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/ct/cndlndgsprtnsct-eng.html>

<sup>2</sup> <http://laws.justice.gc.ca/eng/SOR-2009-315/index.html>



National Energy  
BoardOffice national  
de l'énergie

4 October 2010

To: Interested Parties

**New Participant Funding Program; Changes to the NEB's website; and Updated publication *Pipeline Regulation in Canada: A Guide for Landowners and the Public***

On 1 October 2010 the National Energy Board (NEB or the Board) launched its new Participant Funding Program (PFP). The PFP will provide financial assistance to support the timely and meaningful participation of interested parties who wish to intervene in the NEB's oral hearing process for facility applications.

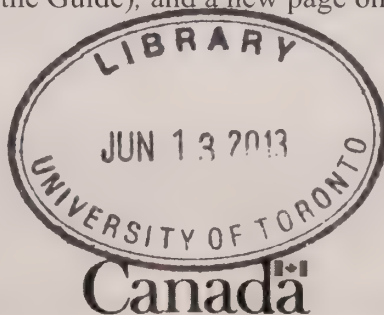
Participant funding may be available for hearings related to the following types of applications under the NEB Act: Certificate of public convenience and necessity for a pipeline (section 52); Exempting orders respecting pipelines (section 58); Certificate of public convenience and necessity for an international or designated interprovincial power line (subsection 58.16); Abandonment of an international or designated interprovincial power line (subsection 58.34); and Abandonment of a pipeline (section 74).

Public participation in oral facility hearings helps to ensure that all views are considered. The PFP is intended to support the participation of recipients who have a direct local interest in a project. It is not meant to cover all expenses incurred by the participant throughout the process.

Eligible recipients include individuals, Aboriginal groups, landowners, incorporated non-industry not-for-profit organizations, or other interest groups who seek to intervene in the public review process for projects in which they have a meaningful interest. Eligible recipients must be able to demonstrate that they meet at least one of the following criteria:

- Have a direct, local interest in the project, such as living or owning property near the project area;
- Have local community insights and/or Aboriginal traditional knowledge respecting to the proposed project;
- Have an interest in potential project impacts on treaty lands, settlement lands or traditional territories and/or related claims and rights; or
- Plan to provide expert information respecting the mandate and decisions of the NEB on proposed projects.

Also on 1 October 2010 the Board released a revised *Pipeline Regulation in Canada: A Guide for Landowners and the Public* (the Guide), and a new page on our website called *Public Participation and Land Matters*.



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The new web page features:

- Information on the newly created PFP;
- A full electronic version of *Pipeline Regulation in Canada: A Guide for Landowners and the Public*;
- Land Matters Consultation Initiative reports and committee information; and
- Information and templates for various Board processes which directly involve landowners and the public.

Highlights of the updated Guide include:

- Increased use of plain language;
- Process diagrams;
- Clarity around how and when the public may be involved in the NEB's processes; and
- Current information on the NEB's processes and programs.

Companies are directed to replace any copies they currently have of the old Guide (ISBN: 0-662-32151-0) with the new version (ISBN 978-1-100-16721-3) and should provide a copy of the new Guide to all of their stakeholders, especially the landowners whose lands are located on the pipeline route.

Copies of the Guide and PFP publications are free and available upon request by emailing [publications@neb-one.gc.ca](mailto:publications@neb-one.gc.ca), or by calling our Library at 403-299-3561 or toll free:

1-800-899-1265. Due to the anticipated volume of requests for the updated *Guide for Landowners and the Public*, extra time may be required to process large orders.

We encourage you to visit the NEB website at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) to read more about the new PFP, and see the changes we have made to the *Public Participation and Land Matters* section of our website.

Yours sincerely,



Anne-Marie Erickson  
Secretary of the Board

Enclosure



National Energy  
BoardOffice national  
de l'énergie

# FACT SHEET

444 Seventh Avenue SW Calgary, Alberta, T2P 0X8

## NATIONAL ENERGY BOARD (NEB) PARTICIPANT FUNDING PROGRAM:

Supporting Public Participation in the NEB's Regulatory Process for Oral Facility Hearings

### THE NEB'S PARTICIPANT FUNDING PROGRAM

The Participant Funding Program supports public participation in oral public hearings that are held under the *National Energy Board Act*.

The Program will apply to the NEB's regulatory process for oral facility hearings. These applications consist of the majority of the facility hearings held by the NEB, and include applications for certificates of public convenience and necessity for pipelines or power lines, exempting orders respecting pipelines, and abandonment of pipelines or power lines.

### ELIGIBLE RECIPIENTS

Eligible recipients include individuals, Aboriginal groups, landowners, incorporated non-industry not-for-profit organizations, or other interest groups who seek to intervene in the public review process for projects in which they have a meaningful interest. Eligible recipients must be able to demonstrate that they meet at least one of the following criteria:

- Have a direct, local interest in the project, such as living or owning property near the project area;
- Have local community insights and/or Aboriginal traditional knowledge respecting to the proposed project;
- Have an interest in potential project impacts on treaty lands, settlement lands or traditional territories and/or related claims and rights; or
- Plan to provide expert information respecting the mandate and decisions of the NEB on proposed projects.

All approved recipients will be required to register for intervenor status in the oral public hearing and sign a Standard Contribution Agreement before funding will be released.

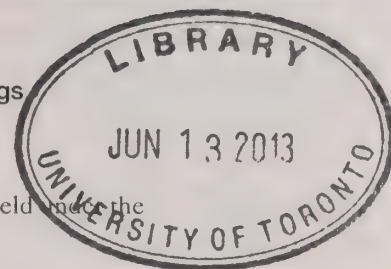
### ELIGIBLE ACTIVITIES

Contributions may be provided for the following eligible activities:

- Activities associated with coordinating the collaboration of interested parties to the hearing;
- Review and provision of comments on the draft List of Issues and scope of the environmental assessment to be considered during the hearing;
- Review of the application and Environmental Impact Statement submitted by the project proponent; and
- Preparation for and participation in hearings convened by the NEB, or a review panel, to consider the proposed project.

### ELIGIBLE EXPENSES

The Participant Funding Program is intended to support an eligible recipient's participation in the NEB's regulatory process for oral facility hearings. It is not meant to cover all expenses incurred by the participant throughout the process. Eligible expenses may include fees for expert advice, travel expenses, purchase of relevant information materials, information collection costs, among others. Program funding is limited and not all applications will be successful.



## **DETERMINING HOW MUCH FUNDING IS AVAILABLE**

The total amount of funding available for a hearing will be determined on the basis of the following factors:

- The potential effects of the project;
- The size and location of the project;
- The number of Aboriginal groups in the area;
- The diversity of issues likely to be involved in the project hearing;
- Participant funding levels that may have been established for similar projects in the past; and
- Available resources.

In establishing the funding level, the NEB will consider the principle that recipients will collaborate to share costs wherever possible and appropriate.

## **APPLYING FOR FUNDS**

Applicants must complete an Application for Funding Form and send it to the NEB's Participant Funding Program Administrator. The deadline for applications is normally 60 days following the announcement from the Board of the funding available to a given regulatory process for an oral facility hearing. Successful applicants must sign a standard contribution agreement and submit a request for payment with supporting documentation before they can receive the funds.

## **AWARDING OF FUNDS**

The NEB establishes an independent Funding Review Committee (FRC) for each project where Participant Funding is available. The FRC will review the applications and make recommendations to the NEB's Chief Operation Officer (COO) on funding allocations.

Decisions on the amount of recipient funding will be based on the following:

- Project funding available;
- The nature of the right or interest of the applicant;
- The scope of the interest or concern the applicant has in the proposed project;
- The potential impact of the proposed project on the right or interest of the applicant;
- Anticipated usefulness of the planned activity to the regulatory process; and,
- Reasonableness of proposal, work plan and costs.

The COO makes the final decision on funding awards. The Participant Funding Program Administrator informs all applicants within three days of the COO's funding decision. Funding decisions will also be announced with a News Release, and on the NEB's website. The report of the FRC will be published on the NEB's website.

## **PUBLIC PARTICIPATION**

As a Canadian energy regulator the NEB is responsible for ensuring that energy supplies are connected to consumers in a safe and responsible way, and in a way that protects the environment, and the rights of those affected.

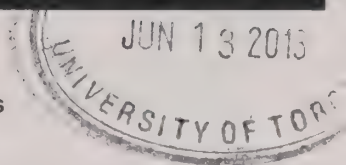
The Participant Funding Program supports public participation that contributes to an open, balanced process and strengthens the quality and credibility of the regulatory review process.

For more information on the Participant Funding Program, consult the Program Guide and /or FAQs on the NEB's website at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) , or contact the Board at 1-800-899-1265.

National Energy  
BoardOffice national  
de l'énergie

# FAQs

444 Seventh Avenue SW Calgary, Alberta, T2P 0X9



## **NATIONAL ENERGY BOARD (NEB) PARTICIPANT FUNDING PROGRAM: Supporting Public Participation in the NEB's Regulatory Process for Oral Facility Hearings**

### **What is a Participant Funding Program?**

The National Energy Board (NEB) Participant Funding Program will provide financial assistance to support the timely and meaningful engagement of the public, including Aboriginal groups, landowners, and incorporated non-industry not-for-profit organizations in the NEB's regulatory process for oral facility hearings.

### **Why is there a funding program?**

The Participant Funding Program supports public participation that contributes to an open, balanced process which strengthens the quality and credibility of the regulatory process.

### **How does the NEB's Participant Funding Program differ from the Canadian Environmental Assessment Agency's Participant Funding Program?**

While the NEB's Participant Funding Program is closely modeled on the Canadian Environmental Assessment Agency's (CEAA) Participant Funding Program, there are a few differences to reflect the differences in the NEB and CEAA mandates, and their processes.

The NEB's Participant Funding Program only applies to the NEB's regulatory process for oral facility hearings. It has only one funding envelope for all eligible recipients, and there will only be one phase of funding. In addition, the scope of activities eligible for NEB Participant Funding extends beyond the Environmental Assessment process to include social and economic issues relevant to the project.

### **Who is eligible to apply?**

Eligible recipients include individuals, Aboriginal groups, landowners, incorporated non-industry not-for-profit organizations, or other interest groups who seek to intervene in the public review process for projects in which they have a meaningful interest. Eligible recipients must be able to demonstrate that they meet at least one of the following criteria:

- Have a direct, local interest in the project, such as living or owning property near the project area;
- Have local community insights and/or Aboriginal traditional knowledge respecting to the proposed project;
- Have an interest in potential project impacts on treaty lands, settlement lands or traditional territories and/or related claims and rights; or
- Plan to provide expert information on the mandate and decisions of the NEB on proposed projects.

All approved recipients will be required to register for intervenor status in the oral public hearing and sign a Standard Contribution Agreement before funding will be released.

### **How do I register for intervenor status for a hearing?**

To become an intervenor in an oral facility hearing, you must submit an application by the deadline set in the NEB's Hearing Order. The NEB issues a Hearing Order after an application has been received, and sets out the hearing process and deadlines.



The Hearing Order may be released after the Funding awards have been announced. Current Hearing Orders are listed on the NEB website under Major Applications and Projects.

You can find the *Application for Intervenor Status* on the NEB website under Regulatory Documents > Submit documents electronically > On-line forms for participation in a hearing.

### **Are local governments eligible for funds?**

Local governments, other than an Aboriginal government, are not eligible for participant funding under the Program.

### **What activities are eligible for funding?**

Contributions may be provided for the following eligible activities:

- Activities associated with coordinating the collaboration of interested parties to the hearing
- Review and provision of comments on the draft List of Issues and scope of the environmental assessment to be considered during the hearing
- Review of the application and Environmental Impact Statement submitted by the project proponent; and
- Preparation for and participation in hearings convened by the NEB, or a review panel, to consider the proposed project.

### **I spent a lot of money to participate in an NEB oral facility hearing in 2009. Can I apply for Participant Funding to be reimbursed for those expenses?**

The NEB's Participant Funding Program does not apply retroactively. The Participant Funding Program will only be available for eligible projects that are received after implementation of the Participant Funding Program.

### **Can I apply to receive funding under both the NEB's Participant Funding Program and the CEAA's Participant Funding Program?**

Applicants are encouraged to collaborate with others and investigate other sources of funding. Applicants are also required to disclose if they have applied for funds elsewhere, and for how much.

### **Is participant funding available for all NEB regulatory hearings?**

The NEB's Participant Funding Program only applies to the NEB's process for oral facility hearings. These applications consist of the majority of the facility hearings held by the NEB, including applications for certificates of public convenience and necessity for pipelines or power lines, exempting orders respecting pipelines, and abandonment of pipelines or power lines.

In the event there is a detailed route hearing, under Section 39 of the NEB Act, you may submit a claim to the company for the costs of participating in a detailed route hearing. Receipts must show the amount of the actual costs, to whom they are owed and the reason for the costs. For example, legal fees or costs for attending the hearing could be acceptable costs. If you and the company cannot settle on the amount you wish to claim, the NEB can determine a reasonable amount.

### **How is the amount of funding determined?**

The total amount of funding available for an oral facility hearing will be determined on the basis of the following factors:

- The potential effects of the project;
- The size and location of the project;
- The number of Aboriginal groups in the area;
- The diversity of issues likely to be involved in the project hearing;
- Participant funding levels that may have been established for similar projects in the past; and



- Available resources.

In establishing the funding level, the NEB will consider the principle that recipients will collaborate to share costs wherever possible and appropriate.

#### **What expenses are eligible?**

The Participant Funding Program will support a recipient's participation in the NEB's regulatory process for oral facility hearings. It is not meant to cover all expenses incurred by the participant throughout the process.

Eligible expenses may include fees for expert advice, travel expenses, purchase of relevant information materials, information collection costs, among others. Program funding is limited and not all applications will be successful. A more complete list of eligible expenses can be found in the Participant Funding Program Guide.

#### **Does funding cover traveling and the time taken to review technical documents?**

Travel costs are eligible and can be refunded based on rates established by the Treasury Board Secretariat. Fees for review of technical documents are also eligible costs.

#### **Does funding cover legal costs?**

The Participant Funding Program covers Professional fees including legal expenses, except for costs associated with activities related to litigation.

#### **How do I become aware of the availability of participant funding?**

Once the level of funding has been determined, the NEB issues a news release or a public notice announcing the availability of funding and inviting the public to apply.

#### **What kind of information must I supply?**

You must meet the basic eligibility criteria and in your Application for Funding Form you must:

- Provide information on your organization;
- Submit a detailed work plan and budget;
- Explain the need for the funding assistance; and
- Identify other sources of funding you may receive.

For more information, consult the Participant Funding Program Guide.

#### **How are the funds accessed?**

Applicants must complete an Application for Funding Form and send it to the NEB's Participant Funding Program. Successful applicants must sign a standard contribution agreement and submit a request for payment with supporting documentation before they can receive the funds.

#### **What is the closing date for submitting an Application for Funding Form?**

Although subject to change, the usual standard is that applicants who wish to receive funding will have to submit their Application for Funding Form within 60 days following the news release announcing that funds are available. Incomplete applications or applications received after the closing date will not be accepted.

### **How are funds awarded?**

The NEB establishes a Funding Review Committee (FRC) to review applications for Participant Funding. This committee is independent of both the project proponent and the regulatory process. The committee is usually comprised of three people, including one NEB representative and at least one non-government member. The committee reviews all the funding applications and recommends funding awards, taking into account the amount of funds available.

Recommendations on the amount of recipient funding will be based on the following:

- Project funding available;
- The nature of the right or interest of the applicant;
- The scope of the interest or concern the applicant has in the proposed project;
- The potential impact of the proposed project on the right or interest of the applicant;
- Anticipated usefulness of the planned activity to the regulatory process; and,
- Reasonableness of proposal, work plan and costs.

The Chief Operating Officer (COO) makes the final decision on funding awards. The Participant Funding Program administrator informs all applicants within three days of the COO's funding decision. Funding decisions will also be announced with a News Release, and on the NEB's website. The FRC report will also be published on the NEB's website.

### **When will I be reimbursed for eligible expenses?**

Payments will normally be made once a claim has been submitted to the NEB's Participant Funding Program Administrator.

Where warranted, an advance payment may be issued to the recipient following approval of funding, provided that the recipient presents reasons for their inability to begin project activities without the NEB's share of allowable expenses. Advance payments will not exceed 75 per cent of the maximum amount approved for that recipient.

### **Under which provision of the Act was the funding program established?**

The Participant Funding Program was established under the *National Energy Board Act (NEB Act)*. The NEB Act allows for the provision of funding to members of the public involved in a public hearing. Legislative direction for a participant funding program is contained in section 16.3 of the NEB Act which states:

*"For the purposes of this Act, the Board may establish a participant funding program to facilitate the participation of the public in hearings that are held under section 24."*











